

STAFF PERSONNEL

Series 400

POLICY TITLE: FAMILY AND MEDICAL LEAVE

No. 401.4

Johnston Community School District supports the Family and Medical Leave Act (FMLA). Any Johnston Community School District employee who has been employed with the district for at least 12 months and who has worked at least 1,250 hours during the twelve (12) month period preceding the start of the leave will be entitled to a total of twelve (12) work weeks of unpaid leave for the following reasons:

1. Because of the birth of an employee's child in order to care for that child.
2. Because of the placement of a child with the employee for adoption or foster care.
3. In order to care for the spouse or parent of the employee if that spouse or parent has a serious health condition, or in order to care for a son or daughter of the employee if that son or daughter has a serious health condition and is under the age of 18 or, if 18 years or older, is incapable of self-care because of a physical or mental disability.
4. Because of the employee's own serious health condition, which makes the employee unable to perform the functions of their position.

An employee's twelve (12) month entitlement period will be calculated by measuring backward from the date an employee begins FMLA leave.

In addition, an employee is entitled to twenty-six (26) weeks of unpaid family and medical leave to care for a family service member (military caregiver) with a serious injury or illness and twelve (12) weeks of unpaid family and medical leave (exigency leave) when a family member is called to active duty or on call to active duty status.

For the purposes of reasons 3 and 4 above, the term "serious health condition" means an illness, injury, impairment or physical or mental condition that involves one of the following:

1. Hospital Care
Hospital inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.
2. Absence Plus Treatment
A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments

Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-Term Conditions Requiring Supervision

Permanent or long-term conditions such as Alzheimer's disease or a severe stroke that requires continuing supervision of, though not necessarily receiving actual treatment by, a health care provider.

6. Multiple Treatments (Non-Chronic Conditions)

Absence for any period to receive multiple treatments for non-chronic conditions (including any period of recovery therefrom) by a health care provider or their agents, either for restorative surgery after an accident or 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 chemotherapy for cancer or dialysis for kidney disease.

Ordinarily, unless complications arise, illnesses such as the common cold or flu, ear aches, upset stomach, non-migraine headaches and routine dental problems are examples of conditions that do not meet the definition of a serious health condition and do not qualify for family and medical leave.

Substance abuse may be a serious health condition if the conditions of this term are otherwise met. However, family and medical leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for family and medical leave.

Intermittent Leave

Leave taken due to the birth or adoption of a child must be taken within 12 months of the event and may not be taken intermittently or on a reduced hours basis except in unusual circumstances and with prior approval of Johnston Community School District.

Leave taken to care for a family member or because of the employee's own health condition may be taken intermittently or on a reduced hours basis when medically necessary. If an employee requests leave be taken in this manner, Johnston Community School District may require the employee to transfer temporarily to an alternative position with equivalent pay and benefits that better accommodates recurring periods of leave.

If the leave would constitute more than twenty (20) percent of the total number of working days over the period the leave would extend, then the district may require the employee to take leave for the period of the particular duration or transfer temporarily to an alternative position with equivalent pay and benefits that better accommodates recurring periods of leave.

Spouses Both Employed by Johnston Community School District

A husband and wife both employed by Johnston Community School District are entitled to take only a combined total of 12 weeks of leave during the applicable 12-month period if the leave is taken for the birth or adoption of a child.

Substitution of Paid Leave

Johnston Community School District will require the employee to substitute accrued paid vacation or sick leave in lieu of unpaid leave when leave is taken due to the employee's own health condition. The employee must substitute accrued paid vacation time in lieu of unpaid leave when leave is taken because of the birth or adoption of a child or to care for a family member.

Notice

If the necessity for leave is foreseeable, the employee must notify Johnston Community School District at least 30 days in advance of their intention to take leave. If the 30-day advance notice is impracticable, the employee shall provide as much advance notice as practicable. Failure to provide notice as required may result in denial of leave.

Medical Certification

All requests for leave to care for a family member or because of the employee's own health condition must be supported by a certification issued by the appropriate health care provider. The employee's immediate supervisor will provide this form. The certification must state:

1. The date the serious health condition started;
2. The probable duration of the condition;

3. Which part of the definition of “serious health condition” applies and the appropriate medical facts regarding the condition; and
4. That either the employee is needed to care for the family member and for how long the care is needed or that the employee is unable to perform any one of the essential functions of their positions due to their condition.

If intermittent leave or leave on a reduced hours basis is requested, the certification must also contain:

1. The dates of any planned medical treatment;
2. The medical necessity for and expected duration of the leave; and
3. When applicable, this type of leave is necessary for a family member’s care or to assist in their recovery and the expected duration and schedule of the leave.

Second Opinion

Johnston Community School District reserves the right to obtain a second opinion from another health care provider. If the second opinion differs from the original certification, Johnston Community School District may require a third opinion be obtained from a jointly designated health care provider. This third opinion will be final and binding. Second opinions will be obtained at the expense of Johnston Community School District. The expense of third opinions will be obtained at the expense of the Johnston Community School District. Recertification may be required by Johnston Community School District on a reasonable basis at the employee’s expense.

Health Benefit Continuation

Johnston Community School District shall maintain group health insurance coverage for the employee during any period of family and medical leave on the same basis as coverage would have been provided if the employee had not taken such leave. If the employee fails to return from leave after it expires for any reason other than the continuation, recurrence or onset of a serious health condition of the employee or the employee’s family member or circumstances beyond the employee’s control, Johnston Community School District may recover from the employee any premiums for group health coverage paid by Johnston Community School District during the period of leave.

Other Benefits

The employee’s entitlement to benefits other than health insurance during the period of family and medical leave will be determined in accordance with Johnston Community School District policies regarding such benefits when the employee is on other forms of leave. Unused benefits accrued before the date leave began will be retained but the employee will accrue no seniority or benefits that would have accrued during the period of unpaid family and medical leave.

Return to Work

Subject to limitations provided by applicable law, the returning employee will be restored to the position he/she held when leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. However,

if the employee 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, the employee is not guaranteed reinstatement except as may be required by applicable law. Further, in accordance with applicable law, certain key employees are not guaranteed reinstatement and business circumstances may prevent reinstatement. Upon expiration of the leave, an employee on leave for his/her own serious medical condition shall provide Johnston Community School District with a certification from his/her health care provider that the employee is able to resume work. In addition, an employee may be required to remain on FMLA leave in accordance with applicable law and regulations.

Military Caregiver Leave

Military Caregiver Leave (MCL) applies to families with members in the regular armed services, National Guard and Reserves. The leave is to care for a service member with a serious injury or illness, similar to regular FMLA leave.

A “covered service member” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

A “serious injury or illness” is an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the member’s office, grade, rank, or rating. Employees may take MCL in a reduced or intermittent schedule leave.

An eligible employee is entitled to take up to 26 workweeks of leave during a “single 12-month period” to care for a seriously injured or ill covered service member. The “single 12-month period” begins on the first day the eligible employee takes military caregiver leave and ends 12 months after that date, regardless of the method used by the employer to determine the employee’s 12 workweeks of leave entitlement for other FMLA-qualifying reasons.

The law does not apply to retired military.

Employers may require an employee to obtain a certification completed by an authorized health care provider of the covered service member. Employers are not permitted to require second or third opinions on military caregiver leave. Employers are also not permitted to require recertification for such leave.

An employee may be eligible for both military caregiver leave and regular FMLA leave but the employer must designate the leave as military caregiver leave first.

Exigency Leave

Qualifying exigencies include

Issues arising from a covered military member's short-notice deployment (i.e. deployment on seven or less days of notice) for a period of seven days from the date of notification;

Military events and related activities, such as official ceremonies, programs or events sponsored by the military or family support or assistance programs, and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross;

Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate-need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;

Making or updating financial and legal arrangements to address a covered military member's absence;

Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;

Taking up to five days of leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during deployment;

Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and

Any other event that the employee and employer agree is a qualifying exigency.

Guidelines for FMLA leave are defined by federal legislation. Any employee needing to use FMLA leave should meet with the Human Resources Department to ensure accurate application of the guidelines.

Date of Adoption: August 14, 2006

Date Revised: March 7, 2011