

# WALLINGFORD- SWARTHMORE SCHOOL DISTRICT

SECTION: EMPLOYEES

TITLE: FAMILY AND MEDICAL  
LEAVES

ADOPTED: February 25, 2002

REVISED: March 23, 2015

<p>1. Authority 29 U.S.C. Sec. 2601 et seq 29 CFR Part 825</p> <p>2. Guidelines  29 U.S.C. Sec. 2611, 2612</p>	<p style="text-align: center;">335. FAMILY AND MEDICAL LEAVES</p> <p>The Board shall provide eligible administrative, professional and classified employees with unpaid leaves of absence in accordance with the Family And Medical Leave Act, hereinafter referred to as FMLA.</p> <p>In accordance with FMLA, the district shall grant up to twelve (12) weeks of FMLA leave to eligible employees during a twelve-month period for the employee's own serious health condition; for the birth, adoption, foster placement or first-year care of a child; to care for a seriously ill spouse, child or parent; or to address specific qualifying exigencies pertaining to a member of the Armed Forces alerted for foreign deployment or during foreign deployment. Eligible employees shall be provided up to twenty-six (26) workweeks of leave in a single twelve-month period to care for an ill or injured covered servicemember. The twelve-month period begins with the first date the employee's FMLA leave begins. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances, and as specified in this policy.</p> <p><u>Eligible Employees</u></p> <p>An eligible employee is an employee who must meet all of the following conditions:</p> <ol style="list-style-type: none"> <li>1. The employee must have worked for the employer at least twelve (12) months. The twelve (12) months need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of the week.</li> <li>2. The employee must have worked at least 1,250 hours during the twelve-month period immediately before the date when the leave would begin.</li> <li>3. The employee must work in an office or work site where fifty (50) or more employees are employed within seventy-five (75) miles of that office or work site.</li> </ol>
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29 U.S.C. Sec. 2612	<p><u>Reasons For Leave</u></p> <p>In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one (1) of the reasons listed below:</p> <ol style="list-style-type: none"><li>1. Birth/Placement Leave – Birth of a child, or placement of a child with the employee for adoption or foster care. Eligibility for leave for this purpose must end within twelve (12) months after the date of birth or placement.</li><li>2. Care Leave – A serious health condition of the employee’s spouse, child, or parent.</li><li>3. Illness Leave – A serious health condition that makes the employee unable to perform the essential functions of the employee’s job.</li><li>4. The care of a covered servicemember, which is defined as a 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; a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, when the eligible employee is the spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative) of the covered servicemember.</li><li>5. Any qualifying exigency arising out of the fact that the employee’s parent, child, or spouse is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. The term covered active duty means:<ol style="list-style-type: none"><li>a. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and</li><li>b. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty.</li></ol></li></ol>
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<p>29 U.S.C. Sec. 2611</p>	<p>A serious health condition is defined as a condition (i) which requires inpatient care at a hospital, hospice, or residential medical care facility; (ii) which involves incapacity requiring absence of more than three (3) calendar days and involves continuing care by a licensed health care provider; or (iii) which involves continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition which is incurable or so severe that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days or for prenatal care.</p>
<p>29 U.S.C. Sec. 2611</p>	<p>A serious injury or illness:</p> <ol style="list-style-type: none"> <li>1. In the case of a member of the Armed Forces, means 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 that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating; and</li> <li>2. In the case of a veteran, means a qualifying 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 that manifested itself before or after the member became a veteran.</li> </ol>
<p>29 U.S.C. Sec. 2611 29 CFR Sec. 825.800</p>	<p>A health care provider is defined as: a doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse midwife, clinical social worker, physician assistant and Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts; any health care provider recognized by the employer or the employer's group health plan benefits manager as authorized to provide certification of a serious health condition for claims; and authorized health care providers in countries outside the U.S, in accordance with law and regulations.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.200</p>	<p><u>Length Of Leave</u></p> <p>Eligible employees are entitled to up to twelve (12) workweeks, or up to twenty-six (26) workweeks in the event the leave is taken to care for a covered servicemember, of FMLA leave in each twelve-month period beginning on the first date the employee's FMLA leave begins.</p>

<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.202</p>	<p>Employment of both spouses by the district shall limit leave eligibility in the following situations:</p> <ol style="list-style-type: none"> <li>1. A combined total of twelve (12) weeks of leave for the birth of a child or for placement with them of a child for adoption or for foster care.</li> <li>2. A combined total of twelve (12) weeks of leave to care for a parent who has a serious health condition. However, for personal serious illness, the illness of a spouse or child, each spouse employed by the district would qualify for the twelve (12) weeks.</li> <li>3. A combined total of twenty-six (26) weeks of leave to care for a covered servicemember.</li> </ol>
<p>29 U.S.C. Sec. 2614 29 CFR Sec. 825.209- 825-213</p>	<p><u>Employee Status And Benefits During Leave</u></p> <p>While an employee is on leave, the district will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.</p> <p>If an employee fails to return to work at the conclusion of his/her FMLA leave, the district will recover from the employee amounts it paid for health insurance for the employee during the leave. However, the district will not recover amounts paid for health insurance for an employee during FMLA leave if the employee fails to return to work because of a serious health condition of the employee, the employee's spouse, child or parent, or if the employee fails to return for other reasons beyond his/her control. If an employee fails to return to work because of his/her serious health condition, the district will require the employee to provide medical certification of the condition within thirty (30) days of the district's request for such certification.</p> <p>If, under the current agreement or contract, the employee pays a portion of the health care premium, the employer will continue to make payroll deductions to collect the employee's share of the premium while on paid leave. While on unpaid leave, the employee must continue to make this payment according to the employer's existing rules for payment by employees on leave without pay. In the event that an employee's payment is not made within thirty (30) days of the date on which it is due, the district's obligation to maintain health coverage will cease.</p> <p>If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make the payments. If the employee does not continue these payments, the district may discontinue coverage during the leave period.</p>

<p>29 U.S.C. Sec. 2614 29 CFR Sec. 825.214- 825-216</p>	<p><u>Reinstatement After Leave</u></p> <p>An employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay and benefits. The position will be the same or one which entails substantially equivalent skill, effort, responsibility and authority. However, the employee has no greater right to reinstatement or other benefits or conditions of employment than if the employee had been continuously employed during the leave period.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.207</p>	<p><u>Use Of Paid And Unpaid Leave</u></p> <p>If the employee has accrued paid leave, the employee must use paid leave first and take the remainder of the FMLA leave as unpaid leave. Therefore, under this policy, paid leave will always be substituted for unpaid FMLA leave when permitted by the FMLA.</p> <ol style="list-style-type: none"> <li>1. An employee who is taking Illness Leave must exhaust all paid vacation, emergency, and sick leave during their FMLA Leave.</li> <li>2. An employee who is taking Birth, Placement, or Care Leave must exhaust all paid vacation and emergency leave during their FMLA Leave.</li> <li>3. An employee taking leave for the birth of a child must use paid sick leave for physical recovery following childbirth. The employee would then use all paid vacation and emergency leave, and then would be eligible for unpaid leave for the remainder of the twelve (12) weeks.</li> <li>4. An employee using paid vacation, emergency, or other paid leave who seeks an extension of paid leave with “FMLA” leave for an “FMLA” qualifying purpose due to an event which occurred during the period of paid leave, such paid leave used after the “FMLA” qualifying event will be credited against the employee’s twelve (12) week entitlement.</li> </ol>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.202 825.204</p>	<p><u>Limitations Of Leave</u></p> <p><i>Intermittent Leave Or Reduced Leave Schedule –</i></p> <p>An employee is eligible for intermittent or reduced schedule leave for the employee’s own serious health condition; to care for a seriously ill spouse, child or parent; to care for a seriously injured or ill covered servicemember; or for a qualifying exigency.</p>

<p>29 U.S.C. Sec. 2618 29 CFR Sec. 825.600 825.604</p>	<p>Intermittent leave may not be taken for the birth of a child or for placement of a child for adoption or foster care.</p> <p>When intermittent leave or a reduced schedule is requested based on planned medical treatment, the district may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position. Alternatively, the district may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits, but not equivalent duties.</p> <p>When FMLA leave is needed to care for a family member or for the employee's own illness and is for planned medical treatment, the employee must try to schedule treatment so as not to disrupt the employer's operation unduly.</p> <p><i>Special Limitations On FMLA Leave For Instructional Employees –</i></p> <p>1. Leave Taken Near The End Of An Academic Term (Half-Year:</p> <p>The district may require the instructional employee to continue his/her FMLA leave to the end of a term if:</p> <ul style="list-style-type: none"><li>a. The leave begins more than five (5) weeks before the term's end, will last at least three (3) weeks, and the employee would return to work within three (3) weeks of the end of the term.</li><li>b. The leave is for the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered servicemember and (i) begins during the five-week period before the end of a term; (ii) will last more than two (2) weeks; and (iii) the employee would return to work during the two-week period before the end of the term.</li><li>c. The leave is for the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered servicemember and (i) the leave begins during the three-week period before the end of a term, and (ii) will last more than five (5) working days.</li></ul> <p>When an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work will be counted against the FMLA leave entitlement. However, the district will continue the group health insurance coverage under the same conditions as if the employee were working.</p>
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<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.302</p> <p>29 CFR Sec. 825.311</p> <p>29 U.S.C. Sec. 2613 29 CFR Sec. 825.305- 825.313</p>	<p>2. Use Of Intermittent Leave Or Reduced Leave Schedule:</p> <p>a. If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule based on foreseeable planned medical treatment, and if the employee would be on leave for more than twenty percent (20%) of the total number of working days over the period of the leave, then the employer may require the employee to choose either: (1) to take leave for a period not greater than the duration of the planned treatment; or (2) to transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.</p> <p><u>Procedure For Requesting Leave</u></p> <p>Employees must give thirty (30) days' notice, in writing to the Superintendent or designee, of their need for FMLA leave where the need for the leave is foreseeable. If it is not possible to give thirty (30) days' notice, the employee must give as much notice as is practicable.</p> <p>If an employee fails to provide thirty (30) days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least thirty (30) days from the date the employer receives notice.</p> <p>Employees must provide periodic reports during FMLA leave regarding the status of the medical condition and their intent to return to work. An employee notice of intent not to return to work will cause an immediate termination of the employee's rights under this policy and the FMLA.</p> <p><u>Certification Of Serious Health Condition And Certification Of Fitness For Work</u></p> <p>Employees must provide medical certification supporting the need for leave due to a serious health condition of the employee or an immediate family member on a form to be provided by the district, and in accordance with law and regulations.</p> <p>Employees requesting other FMLA leave may be required to provide other certification as specified in law and regulations.</p> <p>At the request of the district, employees must provide second and, where the first and second opinions differ, third medical opinions regarding the need for leave due to a serious health condition. Second and third opinions will be at the expense of the district. The district will deny leave until the required certification is supplied.</p>
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<p>29 U.S.C. Sec. 2619 29 CFR Sec. 825.300</p>	<p>Employees may be required to provide recertification of medical conditions every thirty (30) days, or more frequently at the discretion of the district, as allowed by the FMLA.</p> <p>An employee who takes FMLA leave because of the employee's own serious health condition must provide certification that s/he is able to resume work. The district will deny reinstatement until the requested certification is provided.</p> <p><u>Notice To Employees Of Their Rights And Obligations Under The FMLA</u></p> <p>The district will post a notice, as required by the FMLA, explaining the provisions of the FMLA.</p> <p>The district will maintain Board policy intended to comply with the FMLA.</p> <p>When an employee gives notice of his/her need for FMLA leave, or when the district acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the district will inform the employee: (1) of his/her rights and obligations under the FMLA, including any obligation the employee may have to make contributions toward benefits; and (2) of what may happen if the employee fails to meet those obligations.</p> <p><u>Maintenance Of Records</u></p> <p>The district will comply with the recordkeeping requirements of the FMLA.</p> <p><u>Definitions</u></p> <p>To the extent that this policy employs terms which are defined in the FMLA or in the regulations interpreting it, those definitions are incorporated into this policy.</p> <p><u>Compliance With The FMLA</u></p> <p>This policy is intended to comply with the requirements of the FMLA. To the extent it fails to do so, the provisions of the FMLA shall prevail.</p>
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	<p><u>Contract Provisions</u></p> <p>Nothing in this policy is intended to supersede an administrative compensation plan, collective bargaining agreement, individual contract or Board resolution.</p> <p>References:</p> <p>Family And Medical Leave Act – 29 U.S.C. Sec. 2601 et seq.</p> <p>Family And Medical Leave Act, Title 29, Code of Federal Regulations – 29 CFR Part 825</p> <p>Board Policy – 813</p>
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