

## REGULATION G-42-R1

### EMPLOYEE SICK LEAVE

An employee may be absent from duty because of an accidental injury or illness, for the employee or the employee's immediate family, without loss of salary not to exceed the number of sick leave days accrued during each school year. Professional Technical (ProTech), Central Office Administrators, Building Administrators and certified employees' sick leave shall be vested at the beginning of the school year. Support employees will accrue sick leave on a monthly basis and may not use sick leave during the probationary period.

Full time benefited employees will receive 1 day of sick leave per month of their contract. The day of sick leave per month equals the number of hours in the scheduled work day. Full time benefited employees on less than 100% full time equivalent (FTE) will receive a prorated amount.

10 month contract	10 days of sick leave
11 month contract	11 days of sick leave
12 month contract	12 days of sick leave

Unused sick leave shall be cumulative to a total 200 days or according to amounts listed in the applicable collective bargaining agreements.

The district shall require documentation or investigate any time it appears that the sick leave is not being used for the purposes specified, 5 consecutive days has been used, or in excess of the 10 days per fiscal year has been used. Any employee who abuses the sick leave or attempts to take unfair advantage of sick leave benefits shall be subject to disciplinary action up to, and including, dismissal, as provided by contract and/or state law. If the immediate supervisor of an employee decides that sick leave is not being used for an appropriate purpose, he/she shall notify Human Resources (HR) to initiate an investigation of the matter. The employee may be required to submit appropriate evidence concerning the cause of his/her absence(s) in order to qualify for sick leave benefits. Appropriate evidence may include the following:

- Physician's statement endorsed by the employee
- Employee statement endorsed by the principal or immediate supervisor
- Copies of claim(s) submitted for insurance benefits
- Other information as may be indicated by the circumstances

Appropriate evidence listed above shall be submitted to HR for the following situations unless the employee is on FMLA leave:

- Sick leave claim on days of unusual or inclement weather
- Sick leave claim during the last four weeks of employment
- Sick leave claim on days immediately preceding or immediately following holidays or non-work days other than weekends

#### **Additional Sick Leave for Certified Teachers**

When a teacher's accrued sick leave is exhausted and the teacher is absent due to reasons above, the teacher shall receive full salary less the amount that would be paid to a substitute teacher for a maximum of 20 days. A written request for the additional leave must be provided to HR and when not used in conjunction with FMLA leave, the medical documentation must be provided.

### **Sick Leave Sharing Bank Program**

A Sick Leave Sharing Bank Program (SLSBP) has been established for Professional Technical (Pro Tech) and Central Office Administrator employees who have exhausted all available annual leave due to illness, injury, impairment, physical or mental condition of the employee, which is of an extraordinary or severe nature.

All full-time active Pro Tech and Central Office Administrators with a minimum of 88 hours of accrued sick leave who have completed a minimum of one year of service can enroll in the SLSBP each year by donating 8 hours of their own accrued sick leave to the SLSBP. Those wishing to participate, but have not been employed 12 months, can be enrolled in the month of their first anniversary if they have 88 hours of sick leave accrued at that time. Those employees joining the program on their anniversary date will have to donate another 8 hours in January to be a member of the SLSBP when the next year's member donation is due. The program will run on a calendar year basis and membership drives will occur each January.

Eligible employees must be a member of the SLSBP to request leave from the program. An employee must have exhausted all of their available paid leave including sick leave, vacation, and personal business before SLSBP leave can be used. The SLSBP request form will require documentation in the form of the completed FMLA Certification of Serious Health Condition form, from the employee's treating physician. If the request for leave is approved, the employee may receive up to 2 months of leave at full pay and 1 month of leave at half pay, depending on the needs of the employee. The leave request will be reviewed by the HR Benefits team and the employee's supervisor to approve the amount of time granted to the employee. Only one leave request per year per employee will be granted.

Only the donated leave of the SLSBP participants will fund the bank. Any leave requested will be subject to the number of hours available in the bank for that calendar year. Employees with excess sick leave at the time of separation from the district can donate their leave to the SLSBP.

### **Sick Leave Transfer**

An individual transferring to the OKCPS district who was employed at another school district during the previous school year, may transfer up to a maximum of 60 days of unused sick leave. Sick leave that is being transferred must be certified by the sending district as unused.

A member of Oklahoma Teachers Retirement (OTRS) can transfer unused sick leave to OTRS upon separation from the district for service credit. Upon the transfer of 960 hours of unused sick leave to OTRS, the member will receive up to one 1 additional year of service credit at retirement. Unused sick

leave that has been transferred into OKCPS and not used while employed for the district can only be transferred to OTRS upon retirement or resignation.

#### **Return to Work from Sick Leave**

An employee returning to work after an extended absence of 10 days or more, FMLA leave, or from an absence related to a personal injury shall be required to furnish a Fit for Duty/Return to Work Certification to HR from the employee's attending physician indicating they are able to return to work and perform the essential duties of their job. The district is entitled to ask a consulting physician for another medical opinion when there is a dispute as to the actual medical condition of the employee or the district believes that returning to work will pose a risk to the employee or others. An employee's position will be held open for an interval not to exceed 3 days after a physician states the employee is able to return to work.

#### **Unused Sick Leave Payout**

Employees have the option to receive a payout of their unused leave balances accrued while working at OKCPS or transfer some or all of the unused sick leave to another district in Oklahoma or to OTRS. Only 60 days of accrued unused sick leave can be transferred to another Oklahoma school district. The payout amounts will be based upon the applicable collective bargaining agreement or board policy. Attorney General Opinion No 30-800 provides that if a school district pays employees for unused sick days upon retirement or termination of the employment contract, those days are no longer considered unused and can no longer be transferred.

Central office and professional technical staff may be paid for unused sick leave days qualifying for payment of \$20.00 per day providing that an official notice of resignation or retirement is received at least 60 days prior to the date of leaving. If less than a 60-day notice is given, the rate for qualifying unused sick days shall be \$10.00 per day up to 200 days. Rates for payout of unused sick leave for certified staff, support staff, and building administrators is addressed in their collective bargaining agreements.

## **REGULATION G-42-R2**

### **OTHER TYPES OF EMPLOYEE LEAVE**

#### **Vacation**

All 12 month employees shall receive annual vacation days. The purpose of vacation is to allow rest and relaxation for employees. Vacation days will accrue on a monthly basis on the last payday of each month per fiscal year (July 1 through June 30). Requests for vacation leave must be submitted on a Request for Leave form or by electronic leave software where available, to the immediate supervisor with a minimum of 3 days advance notice. Vacation time may be approved at the discretion of the supervisor and/or head of department. Regular part-time employees will accrue vacation on a prorated basis.

No more than 10 days can be taken at one time and vacation days requested cannot total more than the number of days the employee has accrued at the time of request, or can reasonably be predicted to have available at the time of the requested usage date. Vacation time can be used in units as small as 15 minutes.

Depending on the year, 3 or 4 days of mandatory vacation leave is required to be used to cover days off during winter break. If the employee has used all his/her vacation leave prior to the mandatory days off, the employee will be required to take those days as unpaid. No sick leave nor personal business leave shall be used to substitute for the vacation leave unless the employee was a new hire with the district after September 1st of that fiscal year and will not have accrued enough vacation to cover the mandatory days. If this is the case, then personal business days will be used first, then sick days will be used to cover the mandatory vacation days.

If the Board of Education declares additional days to be used as mandatory vacation days in a given year, the HR Department will determine how the days may be taken in the event that an employee does not have a sufficient balance of vacation to cover those days. This information will be communicated as soon as possible following the Board's alteration of the district calendar.

Support employees accruals are based on years of service and are covered in their collective bargaining agreement. Central office and professional technical employees will earn 1.84 vacation days per month (22 days annually) of vacation in a full fiscal year. Vacation days can accumulate annually up to a max of 66 days but only 44 will carry over each year and will be paid out upon separation from the district.

Vacation days will not be accrued when an employee is in an unpaid status, on an unpaid extended leave of absence, or while on leave due to a worker's compensation injury. Vacation leave will continue to accrue while on FMLA leave.

#### **Personal Business Leave**

Each full time regular certified employee, support employee, central office and professional technical staff member will be provided with 3 personal business days per fiscal year. Building administrators will be granted 4 days of personal business leave during the fiscal year. When possible, the employee shall notify and obtain the approval of his/her supervisor a minimum of 24 hours prior to taking these days. Any of the personal business leave not used during this fiscal year will convert to sick leave for accumulation in accordance with the sick leave policy.

Personal business leave is to be used for absences necessitated by an “unforeseen combination of circumstances that call for immediate action” or business only the employee can attend to that cannot be handled outside of the normal working day. Personal business leave is noncumulative.

The following examples of situations that DO qualify for personal business:

- Family illness (including other than immediate family)
- Business transactions (i.e. loans closings, banking matters, IRS review, etc.)
- Legal matters (i.e. meeting with an attorney, court, settling an estate, etc.)
- Military obligations
- Funerals for individuals who do not qualify as immediate family
- Attending own child’s school activities
- [Not coming into work due to unusual or inclement weather \(snow day\)](#)

The following are examples of situations that DO NOT qualify for personal business:

- Vacations
- Attending sporting events when one’s own child is not competing
- Seeking other employment
- Performing any service for compensation
- Participating in political or social activities

### **Bereavement Leave**

Employees shall be allowed the necessary time off, up to a maximum of 5 consecutive workdays of bereavement leave, following the death of a member of the immediate family. If no workdays exist between the date the death occurs and the end of the fifth day, no bereavement leave shall be granted.

If sick leave is taken for bereavement purposes, the leave for that period may extend to the date of the funeral and a reasonable time thereafter to allow for travel as long as the employee has leave available to use. If the funeral is for someone other than immediate family, the absence will be charged to personal business.

### **Injury leave**

A regular full-time employee who is injured in the line of duty and is unable to perform his or her assigned duties and files a workers’ compensation claim may be absent from work without loss of pay for a period of up to 3 days for each separate injury, or the number of days specified in the appropriate collective bargaining agreement.

### **Emergency Leave**

The district shall provide 3 emergency leave days for employees affected by a declared natural disaster. These days shall not be chargeable to sick leave and will be noncumulative. Emergency leave will be granted at the discretion of the Superintendent’s designee. The school district will pay the substitute's salary if one is needed. (70 O.S.6-104)

The OKCPS Board of Education shall grant leave with pay not to exceed 15 working days to an employee who is directly affected by a governor or presidentially declared national disaster in Oklahoma if:

1. The employee suffered a physical injury as a result of the disaster;
2. A relative or household member of the employee suffered a severe physical injury or died as a result of the disaster; or
3. The domicile of the employee or the domicile of a relative of the employee was destroyed as a

result of the disaster. (70 O.S.6-104.7)

### **Professional Development Leave**

Professional leave is defined as an approved absence from an employee's regularly assigned duties in order that the employee may participate in activities related to the employee's primary job for professional growth. This includes workshops, seminars, and conferences. Application for professional development leave requires the recommendation of the immediate supervisor, and the approval of the principal/next level supervisor, the Leadership Team member over that functional area, and the Chief Human Resources Officer. The employee must provide proper documentation validating the type and dates of the conference, workshop, or professional meeting with the application. Professional leave will not be granted to attend political conventions or political activities, to attend or participate in union-related activities, or participate in activities not falling within the definition of professional leave.

### **Legal Leave**

Legal leave may be granted to employees who have been subpoenaed by a court of record as a witness in a criminal, civil, or juvenile proceeding to testify to matters relating to the official business of the district, or resulting from employment by the district. If the court subpoena is for any reason other than official business of the district, legal leave may not be used, but personal business leave may be used instead.

Employees will be covered by legal leave when summoned for jury duty. An employee will be paid by the district for only the actual number of days of jury duty for which the court has reimbursed him or her. If the employee is excused from jury duty for one half day or an entire day, he or she is expected to be at his or her job assignment. An employee who is summoned for jury duty should complete an Absence Request Form, secure the principal's/department head's signature, and forward the form with the jury summons to HR as early as possible.

### **Holidays**

The Board of Education will designate the holidays on the district calendar each fiscal year. All schools, the Central Office, and the Operations Center are closed on district holidays.

The following holidays are typically observed:

Martin Luther King Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Day After Thanksgiving Day  
Christmas  
New Year's Day

### **Extended Leaves of Absence**

Extended leaves of absence without pay and benefits may be granted for the reasons stated in this section only after the employee has been employed by the district for at least 2 consecutive years. A

teacher must be a fulltime contract teacher. Extended leaves of absence will not be granted to employees who do not meet the conditions or who fail to follow the procedures outlined in this regulation. The decision to grant or not grant such leave shall be an administrative decision of the Chief Human Resources Officer and will not be made until June 1 when vacant positions and the staffing needs of the district can be reviewed.

All approved extended leaves of absence are granted to June 30 of the year in which the leave commences and may be renewed in certain instances upon written request as stated below. Employees requesting an extended leave of absence or renewal of a previously granted extended leave of absence shall submit a written request to Human Resources by April 15 for leave for the next fiscal year. Such request shall designate the reason for such leave, and the beginning and ending dates of the requested leave shall be filed, when possible, not less than one month prior to the beginning of the requested leave of absence.

All extended leaves of absence shall expire automatically on June 30 of each year, subject to renewal as provided herein. If the position of the employee is eliminated due to a reduction in force or consolidation, the employee will be treated just the same as if he/she was actively employed and will be notified.

All benefits and insurance will end when an employee goes into an extended leave of absence. COBRA documents will be sent to the employee for the purpose of continuing medical insurance. Some benefits can be kept by the employee by making the payments directly to the carrier so the employee needs to make an appointment with the Benefits team prior to the extended leave of absence to prevent a lapse in coverage.

An employee will not be granted salary increases (except as otherwise provided by military leave) while on extended leave of absence or upon reinstatement. Although the leave of absence will not be considered as a break in employment, the period of absence will not be counted towards years of service for the district or Oklahoma Teachers Retirement.

By granting an extended leave of absence, the District signifies its intention to re-employ the employee to a similar position at the end of the leave, provided:

- A. There is an existing vacancy for which the individual is qualified, and
- B. The employee complies with all requirements of re-employment.

**Extended leaves of absence are granted in the following situations:**

**1. Infant Child Care**

An employee may request an extended leave of absence in order to care for a newborn or adopted child. This may be renewed for one successive school year. Request must be made within 30 days after the birth for the remainder of the fiscal year or made by April 15<sup>th</sup> for leave to begin the next fiscal year. A leave of absence for infant child care may be renewed for 1 additional school year depending on the needs of the district.

**2. Medical Leave of Absence**

Requests for leave of absence for personal illness, requests to return from such leaves, or requests to extend such leaves must be accompanied by a detailed physician's statement from the treating physician. The physician's statement must include the nature of the illness and specifically state that the individual is unable to perform his/her assigned duties or other gainful employment, and when the condition will end.

Request for the personal illness leave of absence must be filed in HR at least 2 weeks prior to the beginning leave date, if circumstances permit. A leave of absence for personal illness may be renewed for 1 additional school year depending on the needs of the district. When an employee has recovered and wants to return to work before the end of the fiscal year, a completed Fit for Duty/Return to Work form needs to be completed indicating that the employee has sufficiently recovered to resume normal duties and attached to an intent to return to work letter and submitted to HR at least 2 weeks prior to intended return date.

If no written communication is received in HR from the employee prior to April 15, either in the form of a request for return, or a request for an extension of an extended leave of absence or intent to return to work for the next fiscal year, the leave of absence will lapse and the individual's employment will be deemed to have terminated.

Request for medical leave of absence to care for a sick member of the employee's immediate family must follow the same steps as above. This leave of absence may not be renewed.

### **3. Academic Leave of Absence**

An extended leave of absence for further study may be granted for approved courses of study for not less than 20 hours of credit for the school year. Employees failing to comply with this requirement will not be entitled to leave of absence benefits. This leave of absence may be extended for 1 successive school year by providing transcripts of classes taken. Requests for an academic leave of absence must be submitted by April 15. Requests to return from academic extended leave of absence should be accompanied by an official transcript showing successful completion of 20 hours of college credit during a year's leave or showing such courses in progress.

### **4. Political Leave**

Employees may be granted a leave of absence for up to 1 year in order to become a candidate for public office. The granting of such leave will be contingent upon finding a replacement for the employee.



## **REGULATION G-42-R-3**

### **FAMILY MEDICAL LEAVE ACT**

The federal Family and Medical Leave Act (FMLA) took effect on August 5, 1993. The Act is intended to balance the demands of the workplace with the needs of families by allowing leave for certain qualifying reasons. Oklahoma City Public Schools (OKCPS) will follow the regulations set by the federal law. The law provides up to 12 weeks of job-protected unpaid leave for eligible employees in any 12-month period, which OKCPS defines as a rolling calendar year.

FMLA leave runs concurrently with paid time off and workers' compensation benefits. Employees are required to exhaust paid FMLA leave (e.g. sick leave, vacation, etc.) before taking unpaid FMLA leave.

#### **Eligibility**

To be eligible for FMLA leave, an employee must have:

- 1) Worked at least 12 months for OKCPS (need not be consecutive); and
- 2) Worked at least 1,250 hours during the 12 months preceding the need for leave. Paid time off and unpaid leave are not included in determining hours actually worked.

#### **Qualifying Reasons**

FMLA leave may be taken for more than one qualifying reason, but are limited to a total of 12 weeks in a 12-month period. The eligibility requirement must be verified with the first FMLA leave request and for each new qualifying reason during the rolling calendar year.

Qualifying reasons for FMLA leave:

- Birth of a child and to care for a newborn child of the employee or spouse\*
- Placement with the employee of a child for adoption or foster care\*
- Care for the employee's spouse, child, or parent with a serious health condition
- A serious health condition that makes an employee unable to perform the functions of the employee's job.

\*For the purpose of parental bonding with a newborn, adopted or foster child, the employee is entitled to 12 weeks of job protected leave. Sick leave can only cover the portion of illness or disability for the employee or child which would typically be 6 weeks for a normal vaginal childbirth and 8 weeks for a C-section birth. Employees wanting to be paid for this time off may utilize vacation and/or personal business.

#### **Qualifying Exigency Leave and Military Caregiver Leave**

Active duty service members qualifying exigency may use up to 26 weeks in a 12-month period. Covered active duty means duty during deployment to a foreign country.

- A qualifying exigency arising out of the employee's spouse, child, or parent's covered active duty or call to active duty in support of a contingency operation. Qualifying exigency leave is an FMLA-qualifying reason for which an eligible employee may use his or her entitlement for up to 12 work weeks of FMLA leave each year. An eligible employee may take 12 weeks of leave for both qualifying exigency leave and leave for a serious health condition.

- Care for a covered service member, current member of the Armed Forces, including Regular National Guard or Reserves, with a serious injury or illness incurred in the line of active duty if the employee is the spouse, child, parent, or next of kin of the service member.

Serious illness or injury means service member 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 or on active duty. An eligible employee is entitled to take up to 26 workweeks of leave during a “single 12 month period”. A single 12 month period begins on the first day the eligible employee takes military caregiver leave and ends 12 months after that date.

Family Member

### **Definition of Family Member**

FMLA leave can be used to care for a family member with a serious health condition. Documentation (birth certificate, court document) may be requested to confirm the family relationship and the age of a child.

The federal FMLA defines family member as:

- Spouse – husband or wife, including those in same-sex marriages
- Own parent (not parent “in-laws”)
- Child – biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing “in loco parentis” who is either under the age of 18, or 18 or older and incapable of self-care because of mental or physical disability
- Covered service member

Family member not covered by the federal FMLA includes: siblings, in-laws, grandparents and other extended family members unless those individuals stood “in loco parentis” to an employee when he or she was a minor.

### **Serious Health Condition**

- Inpatient Care - requiring overnight hospitalization and subsequent treatment
- Continuing Treatment
- A period of incapacity of more than three full consecutive calendar days
- An in-person visit to a health care provider within 7 days of the first day of incapacity and a second in-person visit within 30 days of the first day of incapacity or
- An in-person visit to a health care provider within 7 days of the first day of incapacity followed by a regimen of continuing treatment such as a course of medication or physical therapy
- Chronic conditions continuing over an extended period of time include (e.g. asthma, diabetes, migraine headaches)
- Any period of incapacity (inability to perform essential duties of job or perform other regular daily activities)
- May cause episodic rather than continuous incapacity
- Requires at least two visits annually to the health care provider
- Permanent or long-term conditions (e.g. Alzheimer’s, stroke, terminal diseases)
- Requires continuing supervision by a health care provider
- Conditions requiring multiple treatments (e.g. chemotherapy, dialysis, physical therapy)
- Restorative surgery or conditions, if left untreated, would result in incapacity of more than 3 full consecutive calendar days

### **Intermittent/Reduced Schedule Leave**

The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

- Intermittent/reduced schedule leave may be taken when medically necessary, as provided on FMLA certification, to care for a seriously ill family member, or because of the employee's serious health condition.
- Intermittent/reduced schedule leave may not be taken to care for a newborn or newly placed adopted or foster care child. Only with approval by Chief Human Resources Officer, will an exception be made.

Only the amount of leave actually taken while on intermittent/reduced schedule leave will be charged against employee's FMLA leave. Employees may not be required to take more FMLA leave than necessary to address the circumstances that cause the need for leave.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their supervisors to schedule the leave so as not to unduly disrupt the school/department's operations, subject to the approval of the employee's health care provider. In such cases, the employee may be transferred temporarily to an alternative job with equivalent pay and benefits that accommodate the recurring periods of leave better than the employee's regular job.

### **Special Rules for Schools**

Congress recognized that there could be a substantial disruption to the educational process from instructional employees taking leave at certain times during the academic year or for certain intervals. As a result, there are special rules in the FMLA regulations regarding "instructional employees" of public and private elementary and secondary schools. "Instructional employees" are those whose principal function is to teach and instruct students in a class, small group or individual setting. Thus, "instructional employees" includes not only teachers in the school, but also athletic coaches and special education assistants. For "instructional employees," the following rules apply:

- With regard to intermittent or reduced schedule leave (for an employee's own serious health condition, if the medical leave is foreseeable based on planned medical treatment and the instructional employee is scheduled to be off work more than 20% of the working days during the period of medical leave (for an instructional employee working 5 days a week, 20% would be one day), the school may require the employee to choose:
  - to take leave of a particular duration not to exceed the duration of the planned leave (the entire period of leave is counted as FMLA leave); or
  - to temporarily transfer to another position, so long as such position has equivalent pay and benefits and is a position for which they are qualified. The position also has to better accommodate the employee's intermittent leave.

If leave is requested near the end of the term, the following rules apply regarding job restoration:

- Leave within last 3 weeks of the end of the academic term - for a purpose other than the instructional employee's own serious health condition, District may require continuous leave until the end of the term if the period of leave lasts more than 5 working days.
- Leave within last 5 weeks of the academic term for a purpose other than the instructional employee's own serious health condition, district may require continuous leave until the end of the term if the period of leave is longer than 2 weeks; and if the return to work would occur within 2 weeks of the end of the academic term.

- Leave more than 5 weeks PRIOR to the end of the academic term – the District may require continuous leave until the end of the term if the period of leave is at least 3 weeks; and the return to work would occur during the last 3 weeks of the academic term.

In these cases, only the period of leave taken until the employee is ready to return to work may be charged against the instructional employee's 12 weeks of FMLA (not the additional time the District requires the employee to not work).

When counting 1250 hours worked, teachers can use work time before and after school to determine hours worked. As a benchmark, teachers physically working 9 months of the year would meet the 1250 benchmark if they worked 35 hours a week.

### **Returning from FMLA**

The employee shall provide the district's Fit for Duty/Return to Work Form to HR 3 business days in advance of the return work date. HR will evaluate the Fit for Duty/Return to Work Form to verify there are no restrictions that will cause the employee not to be able to perform the essential duties of his/her job. If there are no restrictions or minor restrictions below what is required for the job, HR will send a copy of the Fit for Duty/Return to Work Form to the employee and employee's supervisor informing the supervisor of the date the employee will return to work and any restrictions that might be needed. If there are restrictions on the Fit for Duty/Return to Work Form that do not allow the employee to perform the essential duties of their job, the employee will not be allowed to return to work until HR, the supervisor and the employee have time to meet and discuss if reasonable accommodations can be made.

The employee is expected to be at work on the date indicated on the certification form. If the employee does not come back to work that day, the employee will have an unexcused absence. An employee who is returning from an approved FMLA absence will be returned to the same position held at the time the leave began or to an equivalent position. An equivalent position is one with equivalent benefits, pay, and other terms and conditions of employment, including the same shift or work schedule. An employee on FMLA leave whose position is affected by a reduction in force or reassignment, may not be reinstated if it can be demonstrated the reduction in force or reassignment would have occurred had the employee been working and not on FMLA leave.

Key employees (employees who are among the highest 10% compensated) may be an exception to the reinstatement rule if reinstatement would result in "substantial and grievous economic injury" to the District. If circumstances allow, HR will notify the key employee before the FMLA leave begins that reinstatement might not be available when he or she is ready to return to work.

### **Substitution of Accrued Leave**

All time missed in a work day due to FMLA leave is charged to available leave accruals, starting with, sick leave (if the leave qualifies to use sick leave), personal business, and vacation (if eligible). If an employee is to be gone for an FMLA eligible reason, that time off shall be charged to FMLA. This time off shall be charged to non-exempt (hourly paid) and exempt employees (salaried, including instructional and professional exempt staff). When on FMLA leave and all paid time-off accruals have been exhausted, FMLA leave will convert to unpaid FMLA leave status. As previously stated, employees are required to exhaust all available paid FMLA leave before taking unpaid FMLA leave.

### **Maintenance of Health Benefits**

When an employee is on FMLA leave and all paid time-off accruals have been exhausted, the employee will go into a FMLA leave without pay status. The employee in this unpaid status will continue to have the employer paid health benefits while on FMLA; however, the employee will need to make arrangements to pay for any employee paid (optional) benefit deductions (i.e. dental insurance, dependent medical insurance) when going out on FMLA leave. The coverage will be dropped if the payment is more than 30 days late. Other benefits, including board paid contribution (if eligible) and cash payments chosen by the employee instead of group health insurance coverage, will not be maintained during periods of unpaid FMLA leave. Accrued paid leave, such as vacation, will not continue to accrue during periods of unpaid leave, including FMLA.

If the end of the 12 weeks of FMLA is near and the employee is still unable to return to work, a request for an unpaid medical leave of absence is an option for an employee who may require more time off work.

### **Notice of Need**

Eligible employees seeking to use FMLA leave need to provide a 30-day advance notice of the need to HR, or as soon as practicable when the need is not foreseeable.

### **Submitting Time Off for FMLA**

Employees are required to submit their leave in the same way they would for any other leave request in their department.

- Teacher's need to submit their leave through AESOP, requesting a substitute as well as through any other method requested by their Building Administrator.
- Support employee's need to submit their leave request through the pre-established channels to their supervisor.
- Employees should keep in contact with their immediate supervisor periodically during the FMLA leave just in case the school or department is looking for something specific that the employee might have been working on and to let them know if the employee is on track for returning on the date listed on the certification form.
- If the employee is unavailable to enter their time due to the severity of their illness, the supervisor /timekeepers must enter the time on the employee's behalf.
- ALL FMLA time off should be entered and accounted for by the direct supervisor.

### **Recertification**

The employee must provide the requested recertification to the District within the time frame requested 15 days after the district's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. The district may request recertification if:

- The employee requests an extension
- Circumstances in the previous certification have changed significantly
- Information is received that casts doubt on the reason for the absence or validity of the previous certification
- If the number and/or nature of the employee's absences don't match the certification, the employee's FMLA attendance record may be sent to the health care provider and asked if the absences are consistent with the employee's serious health condition.
- Every 6 months in connection with an absence by the employee.
- The duration of the prior certification or every 30 days, whichever period is longer.

## **REGULATON G-42-R-4**

### **MILITARY LEAVE**

Military leave shall be granted to qualified employees to perform a variety of military duties under this regulation. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists, National Guard members for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Nothing in this regulation shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), that provides guidance for this matter. Refer to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), enacted October 13, 1994 (Title 38 U.S. Code, Chapter 43, Sections 4301-4333, Public Law 103-353) for guidance. Human Resources (HR), and/or the Employer Support of the Guard and Reserve (ESGR), can be contacted for clarity or items not in this regulation.

Employees shall provide advance notice of military service unless military necessity prevents such notice or unless notice is otherwise impossible or unreasonable. Such oral or written notice can be provided by the employee or by an appropriate Officer or Non-Commissioned Officer (NCO or NCOIC) of the service branch. All employee documents and leave request(s) will be submitted to HR. Employees, will be entitled to 30 paid days of military leave for teachers and 20 paid days of military leave for all other employees, and will be entitled to reinstatement without loss of status, efficiency rating and benefits to the extent allowed by law. Military leave may be used for all activations, active duty and non-active duty training or duty. Once the military leave is exhausted, the employees will be placed on unpaid military leave and personal business leave may not be used.

### **Reemployment Rights**

Employees who volunteer or are called to military service may have reinstatement rights to their employment upon their discharge from active service or their return from short-term assignments, such as weekly drills, weekend drills, summer encampments, or cruises, consistent with USERRA. In order to qualify for reemployment rights, the employee must be qualified as set forth in these regulations and USERRA and must have been employed on a regular basis. The employee cannot be absent for a period greater than 5 years unless the employee qualifies for an exception as set forth by USERRA. The employee must be or have been separated from the service under honorable conditions. Employees who are employed as temporary employees for a definite, nonrecurring period of time are not eligible. Reemployment rights regarding seniority, status, career path, benefits, insurance coverage etc., will all be in accordance with USERRA and the district will defer to USERRA in situations not covered by this regulation.

### **Military Caregiver Leave**

Employees who are the covered relation or next of kin of a covered service member and are needed to provide care for that covered service member may be eligible to take up to a total of 26 weeks of Military caregiver Leave within a single 12-month period and be restored to the same or an Equivalent Position upon returning to work, provided that the employee meets the eligibility requirements. See the FMLA Regulation for further guidance.