

SHAMOKIN AREA SCHOOL DISTRICT

Policy 335, 435, 535: Family and Medical Leave Act Administrative Guidelines

I. Effective Date and Eligibility

This procedure is effective **June 18, 2019** and shall apply to all employees who have been employed by the District for at least twelve (12) months and who had at least 1250 hours of service with the District during the 12-month period immediately preceding the date leave is to commence. Eligible employees are entitled to a total of twelve (12) workweeks of leave during a 12-month period. Such computations shall be based on a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

II. Benefits While on Leave

For employees who are currently eligible for benefits, group health plan benefits shall be continued during the 12-week period of leave. If the employee fails to return to work after the employee's FMLA leave entitlement has expired, the District may recover premiums it paid to maintain group health plans coverage during any period of unpaid FMLA leave, unless the reason the employee does not return to work is due to:

- A. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to FMLA leave (either affecting the employee or an immediate family member), or
- B. "other circumstances beyond the control of the employee."

III. Length of and Eligibility for Leave

Eligible employees are entitled to a total of twelve (12) workweeks of leave during any 12-month period for any one, or more, of the following reasons:

- A. For the birth or placement of a child for adoption or foster care;
- B. To care for the employee's spouse, son, daughter or parent with a serious health condition; and
- C. Because of a serious health condition that makes the employee unable to perform the functions of his or her job. For birth of a son or daughter or placement of a child with an employee for adoption or foster care, eligibility for said leave shall expire at the end of the 12-month period beginning on the date of such birth or placement.

Provisions of this section shall be governed by the considerations for the health of the employees, the need for continuity in school operations, the eligibility of the employee, and the maintenance of a qualified District staff.

IV. Notification Requirements

When such leave is in connection with the birth of a son or daughter, or the placement with the employee of a son or daughter for adoption or foster placement, and is foreseeable, the employee shall provide the District at least thirty (30) days notice of the date when the leave is to begin. When leave is required for employee to care for the employee's spouse, son, daughter or parent with a serious health condition, or because of a serious health condition that makes the employee unable to perform the functions of his or her job, the employee shall make a reasonable effort to schedule such treatment as not to disrupt unduly the operations of the District. Where foreseeable, the employee must provide the Board thirty (30) days notice, unless circumstances dictate otherwise.

V. Leave When Both Spouses are Employed by the District

When both spouses are employed by the District, they are only permitted to take a combined total of twelve (12) workweeks of FMLA leave, for the birth of a son or daughter, the placement with the employee of a son or daughter for adoption or foster care, may be limited to a total of twelve (12) workweeks. However, personal illness or that of a son, daughter, spouse or parent would not be similarly limited in this situation.

VI. Sick Leave, Personal Days, Emergency Days, and Vacation Days as Part of Family/Medical Leave

As per the United States Department of Labor, the District must designate leave as FMLA Leave, if it qualifies, even if the employee uses paid time and/or requests (or even insists) otherwise. So once an employer determines that the employee's leave qualifies under the FMLA, neither the employer nor the employee has a choice in the matter – the leave must be designated as FMLA and counted toward the employee's 12 (or 26) week entitlement.

However, the District will permit the employee to concurrently use paid leave, if available, with FMLA. Sick leave must be used per the employee's collective bargaining agreement prior to the use of personal days, emergency days and vacation days.

VII. Intermittent and Reduced Leave

The employee may not take Family/Medical Leave intermittently or on a reduced hours basis in connection with the birth, adoption or foster placement of a child. An employee may take leave on an intermittent or reduced hour schedule when medically necessary for a serious health condition of a family member or of the employee. Such leave may be spread out over a maximum of twelve (12) consecutive months. The District may require the employee to transfer temporarily to an available alternative position that better accommodates recurring periods of leave.

INSTRUCTIONAL STAFF:

When a teacher requests intermittent or reduced leave for planned medical treatment for more than twenty (20) percent of the total number of working days in the period during which the leave would be used, the employer may require the employee to elect either

to (1) take leave for a "particular duration" of time which is not greater than the duration of the planned treatment, or (2) be transferred to an alternative position.

The District may require the employee to continue taking leave until the end of the term when:

- A. an instructional employee begins leave more than five (5) weeks before the end of a term, and if the leave will last at least three (3) weeks and the employee would otherwise return to work during the three (3) weeks before the end of the term, the employer may require the employee to continue taking leave until the end of the term.
- B. an instructional employee takes leave for a reason other than the employee's serious health condition which commences during the five (5) weeks before the end of the term, and if the leave will last more than two (2) weeks and the employee would otherwise return to work during the last two (2) weeks of the term, the employer may require the employee to continue taking leave until the end of the term.
- C. an employee takes leave for a reason other than the employee's own serious health condition which begins during the last three (3) weeks of the term, and if the leave will last more than five (5) working days, the employer may require the employee to take leave until the end of the term.

VIII. Effect of Anticipated Disability Upon Employment

- A. An employee anticipating the need for leave under the Act shall notify his/her supervisor of the anticipated leave as soon as he/she is aware of the need for leave and follow up with a written request as soon as possible.
- B. The employee shall present to his/her supervisor a written statement by his/her physician of the employee's physical capacity to perform duties assigned.
- C. The Board may require that the employee provide timely certification from his/her health care provider as to the date the condition commenced, the duration, the necessity for the employee's leave, and the employee's inability to perform his/her job functions.
- D. The District need not assume that an employee's statement or his/her physician's statement established fitness conclusively, but may require a review and examination by a Physician selected by the District at School District expense.
- E. In the event the physician of an employee shall be of a contrary opinion to that of physician selected by the District, then both parties shall be asked to select an impartial third physician whose medical opinion shall be conclusive and binding on the issue of medical capacity to continue in the performance of assigned duties.

IX. Board Approved Leave Beyond Family/Medical Leave

Should the Board approve leave for an employee beyond the twelve (12) workweek period, benefits would be at the expense of the employee and the leave subject to District policies and practices.

X. Return from Family Medical Leave

- A. Prior to returning from a Family/Medical leave of absence, the employee shall notify the District of the date he/she plans to return. Upon returning, the employee shall present to the District medical certification that the employee is fit to return to work.
- B. An employee returning from a Family/Medical Leave of absence shall be restored to the position he/she held on the date leave commenced or to a position with equivalent pay and benefits.