

## CHAPTER 6.00 – PERSONNEL

### FAMILY AND MEDICAL LEAVE

6.542\*

All provisions of this section shall be interpreted so as to comply with the requirements and definitions of the Family and Medical Leave Act of 1993, and any applicable implementing regulations. No provisions in this policy shall operate to limit or reduce leaves provided under other Board policy or collective bargaining agreements. When authorized pursuant to this policy, employees will be granted leaves of absence. The leave will be without pay, unless pay is specifically authorized pursuant to another leave policy. During the FMLA leave, the Board will pay the cost of maintaining the employee's medical insurance, including vision and dental benefits.

- I. Employee Eligibility - Any employee who has worked for the Sarasota County School District for at least twelve (12) months and for at least 1,250 hours during the year preceding the start of the leave, is eligible. Instructional personnel employed full time for at least one year shall be presumed to have worked at least 1,250 hours unless the Board shows otherwise.
- II. Reasons for Leave - Eligible employees shall be granted FMLA leave:
  - A. To care for the employee's child after birth, or following placement for adoption or foster care;
  - B. To care for the employee's spouse, son or daughter, or parent who has a serious health condition;
  - C. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job; or
  - D. Any qualifying exigency that arises because the spouse, son, daughter or parent of an employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.
- III. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member is entitled to a total of twenty-six (26) weeks of leave during a twelve (12) month period to care for the service member. This leave is available only during a single twelve (12) month period.
- IV. During the single twelve (12) month period described in section II., an eligible employee is entitled to a combined total of twenty-six (26) weeks of leave under the provisions of sections I. and II. This does not limit the availability of leave under section I. during any other twelve (12) month period.

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- V. Leave Entitlement - An eligible employee is entitled to take up to a total of twelve (12) workweeks of FMLA leave in a 12-month period to be measured backward from the date the employee uses FMLA leave. Each time leave is taken, the amount available is the balance of twelve (12) weeks which has not been used during the immediately preceding twelve (12) months.
- VI. Intermittent Leave for Planned Medical - FMLA leave may be taken intermittently whenever it is medically necessary to take care of a seriously ill spouse, child or parent of the employee, or because of the employee's own serious health condition making the employee unable to work. Intermittent leave may be taken in increments of one or more days or partial days. Certification of the need for intermittent leave, and the leave schedule shall be provided by the health care provider. Employees needing intermittent FMLA leave must attempt to schedule their leave so as to minimize disruption to the District's operations. The District may assign an employee to an alternative position on a temporary basis with equivalent pay and benefits that better accommodate the employee's intermittent leave schedule. Intermittent FMLA leave must be requested by the employee in writing at least thirty (30) days in advance, or as soon as is practicable.
- VII. Maintenance of Group Medical Insurance - The Board shall maintain an employee's medical insurance coverage during FMLA leave to the same extent coverage was provided to the employee prior to taking FMLA leave, for a period not to exceed twelve (12) weeks during the applicable twelve (12) month period. Premiums which had been paid by the employee during the FMLA leave for any independent coverage must continue to be paid by the employee during the FMLA leave period. If dependent coverage premiums are not paid, that insurance will lapse. However, it may be reinstated when the employee resumes work. No waiting period will be required, and there will be no exclusion of medical conditions which arose during the time the insurance was lapsed.
- VIII. Notice - Employees must request FMLA leave in writing, directed to the Personnel Department, at least thirty (30) calendar days in advance, or as early as is practicable. The time for the start of the leave may be delayed for up to thirty (30) days for failure to provide timely notice.
- IX. Job Restoration - Upon return from FMLA leave, an employee shall be restored to the same or an equivalent position. An equivalent position must be at the same pay, benefits, and working conditions, include the same privileges, prerequisites and status, and involve the same or substantially similar duties and responsibilities. The equivalent position must be located at the same or at a geographically proximate work site unless the employee has requested a transfer.

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- X. Failure to Return - At the start of any FMLA leave, the employee must state whether he/she intends to return at the end of the leave. If the employee does not intend to return, the employee will be deemed to have resigned voluntarily and no FMLA benefits will be provided. If the employee states that he/she intends to return and then fails to return, the employee must promptly reimburse the Board for the cost of insurance provided by the Board during the leave. If the employee fails to do so, the Board may take legal action to recover the premiums paid. The Board may require the employee to affirm their intent to return, every thirty (30) days during the leave. If the employee does not intend to return, the employee is not eligible for FMLA benefits. If a person receives FMLA benefits and is later found to be ineligible, the months of FMLA benefits received will be regarded as part of the person's period of eligibility for COBRA insurance continuation.
- XI. Employment of Spouses - When both husband and wife are employed by the Board, only a combined total of twelve (12) weeks of leave during any twelve (12) month period is permitted, if the leave is taken to care for a child after birth or to care for a child after placement for adoption or foster care.
- XII. Application of Paid Leave - Employees are required to use paid accrued sick leave, including sick leave bank benefits if available as part of any FMLA leave taken because of a serious health condition of the employee or of the employee's parent, child or spouse. Employees are required to use accrued vacation and personal days as part of any other type of FMLA leave.
- XIII. Medical Certification - Employees requesting FMLA leave due to a serious health condition of the employee or of the employee's spouse, child or parent, are required to submit a certification from a health care provider, verifying that the leave is medically necessary. Form WH-380 shall be used. The Board may require an employee to obtain a second medical certification, at the Board's expense. If the opinions of the first and second health care provider differ, the Board may require a third medical certification, again at the Board's expense from a health care provider selected by the employee from a list maintained by the Risk Manager. The third opinion shall be final and binding.

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- XIV. Fitness-for-Duty Certification - As a condition of reinstatement of an employee who has taken FMLA leave due to the employee's serious health condition, the employee is required to provide certification from the employee's health care provider that the employee is able to resume work, and is fit for duty. If the FMLA leave is taken because of an injury covered by Worker's Compensation Benefits, and the employee has reached maximum medical improvement, the Board will place the employee in a light duty position which the employee is able to perform. If the employee prefers instead, to take FMLA leave, he/she may do so. However, no Worker's Compensation Wage Loss Benefits will be paid to an employee who rejects a light duty position.

**STATUTORY AUTHORITY:** 1001.41, 1012.22, 1012.23, F.S.

**LAWS IMPLEMENTED:** 1001.43, 1012.66, F.S.  
THE FAMILY AND MEDICAL LEAVE ACT OF 1993;  
PART 825 OF THE CODE OF FEDERAL REGULATIONS,  
TITLE 29, U.S. DEPARTMENT OF LABOR,  
EMPLOYMENT STANDARDS ADMINISTRATION,  
WAGE AND HOUR DIVISION

**HISTORY:** ADOPTED: 8/21/01  
REVISION DATE(S): 4/7/09  
FORMERLY: New

### NOTES:

**Please Refer To: Human Resources Procedures Manual**