

GCCBC

Family and Medical Leave

In accordance with the *Family and Medical Leave Act of 1993* (hereinafter *FMLA*), the Rochester School Board (hereinafter *the Board*) authorizes the Superintendent of Schools to grant up to twelve weeks of unpaid leave during any twelve month period, as defined below, to eligible employees for (1) the birth and first year care of a child; (2) the adoption or foster placement of a child in the employee's home; (3) the care of a spouse, child or parent with a serious health condition; or (4) the serious health condition of the employee.

Serious health condition, for purposes of this policy, is defined as including only those conditions eligible for FMLA leave within the regulations of the U.S. Department of Labor. Generally, this refers to a condition requiring either inpatient care or continuing treatment by a health care provider for a period of more than three days, although intermittent leave may not require that the days be consecutive.

At the end of the leave, the employee will be reinstated to the same or an equivalent position to the one he/she held at the commencement of said leave.

Eligibility

To be eligible for leave under this policy, an employee must have: (1) been employed, either full-time or part-time, by the Board for a minimum of twelve months, either consecutive or non-consecutive, and (2) worked a minimum of 1,250 hours for the Rochester School Department during the year preceding the start of the leave.

For purposes of determining the length of leave for which the employee is eligible, a twelve month period will be defined as the twelve months immediately preceding the dates for which the leave is requested.

Military Leave

A 2008 amendment to the FMLA added up to 12 weeks of leave for "exigencies" for family members of those called to active duty in the Armed Forces (including the National Guard and reserves), and up to 26 weeks of leave for a spouse, son, daughter, parent or next of kin to care for a member of the Armed Forces who is seriously wounded or becomes ill while on active duty.

Prior Notice

An eligible employee wishing to exercise his/her rights under this policy is required to notify the Superintendent of the need for leave at least thirty days before commencement of the leave if it is foreseeable, or within forty-eight hours of learning of the need for the leave when unforeseen circumstances make it impossible to give thirty days' notice. Written notice is requested when practicable. When written notice is not possible, notice may be given in person or by telephone with written follow-up.

In cases where the need for leave is foreseeable and inadequate notice is given, the leave may be delayed until a suitable substitute has been found or until thirty days have elapsed from the time of notice, whichever occurs first.

Medical Certification

Where not prohibited by a collective bargaining agreement, the School Board may require, at the employee's expense, medical certification for approval of FMLA leave. The Board may exercise its options under FMLA regulations to obtain a second and third opinion at the Board's expense and may request re-certification as authorized by FMLA.

Continuation of Health Insurance Coverage

The Board will maintain the employee's health, dental and life insurance coverage throughout the term of the leave provided that the employee continues to pay his/her pre-existing share of the premiums for said coverage.

Should the employee provide notice of intent not to return to work from the unpaid leave, or fail to return as scheduled from the unpaid leave, the Board may terminate payment of its portion of premiums and require the employee to continue the coverage, if desired, under the provisions of COBRA. Further, the Board may seek recovery of the Board's share of premiums paid during an FMLA leave if the employee (1) fails to return to work after the end of FMLA or (2) terminates his/her employment with the Rochester School Department within thirty calendar days after the end of FMLA leave, unless the reason for failure to return or stay at work prohibits recovery under FMLA.

Special Rules for Instructional Personnel

Instructional personnel, as defined in FMLA, will be subject to the special rules outlined in 29 CFR §§825, this policy is intended to implement, not expand, the minimum entitlements under FMLA regulations issued by the U.S. Department of Labor, except where they have been expanded through collective bargaining, state statute, or other policies of the Board. Any issues related to FMLA that are not expressly addressed in this or other Board policy, statute, or a current collective bargaining agreement will be implemented at the minimum level required by FMLA regulations.

Wherever a collective bargaining agreement has created benefits more favorable to the employee than those established by FMLA, the provisions of the collective bargaining agreement will be controlling for employees covered by that agreement.

Relationship of FMLA to Sick Leave

It is the intent of the district to adhere to the minimum guidelines set forth in the federal Family Medical Leave Act or State Family Medical Leave Act, whichever is more stringent. The district intends to administer FMLA using available and appropriate paid sick, vacation and personal leave first before any unpaid leave is taken. If the affected employee does not have any leave available, then FMLA will be unpaid for the entire 12 weeks or portion thereof. If paid leave time is available in excess of the FMLA period, then the employee must either return to work, have additional leave approved by the Superintendent or justify through written medical notice that additional time is needed. The additional time taken in excess of the FMLA guidelines will not be considered additional FMLA.

Any employee who has worked for the district for at least one year and/or 1,250 hours and who does not report to work due to sickness, or any other Family Medical Leave Qualified reason, will

be considered on FMLA beginning on the fourth day of absence and will be promptly notified. The time from the fourth day until the time the employee returns to work will be allocated towards the 12 week maximum allowed Family and Medical Leave.

An FMLA notice will be posted in all district schools, buildings and locations where employees report to work. A complete copy of all applicable laws and statutes is available in the Superintendent's office and is available for review at the central office location only. Appointments should be made with the Benefits Specialist to secure time to review these laws if so desired.

Adopted: October 14, 1993

Amended: April 13, 2000; September 10, 2020

Formally: GBEB