

**COMMON POLICY FOR FRANKLIN CENTRAL SUPERVISORY UNION
ST. ALBANS CITY, ST. ALBANS TOWN, FAIRFIELD,
BELLOWS FREE ACADEMY UNION HIGH SCHOOL #48 AND
NORTHWEST TECHNICAL CENTER**

CODE: D14

The Family Medical Leave Act was enacted in 1993 and entitles eligible employees of the District up to 12 weeks of unpaid time in a 12-month period for the birth or adoption of one's child or for the care of one's own serious health condition or that of an immediate family member. It is the intention that this policy meets all requirements of the Federal and Vermont Acts.

FAMILY AND MEDICAL LEAVE POLICY

I. ELIGIBILITY

To be eligible for FMLA leave, an employee must (1) have worked for the District for at least 12 months; and (2) have worked at least 1,250 hours during the 12-month period immediately preceding the beginning of the leave. All time granted under FMLA will run concurrently with any other paid or unpaid leave including time granted for employees with a paid medical leave benefit.

II. REASONS FOR LEAVE

A. Employees who meet the applicable service requirements may be granted unpaid family or medical ("FMLA") leave for any of the following reasons:

1. Birth of an employee's child and to care for the newborn child;
2. For placement of a child with an employee for adoption or foster care;
3. To care for an employee's spouse, civil union partner, child, stepchild, ward who lives with the employee, foster child, parent, parent of the employee's spouse or parent of the employee's civil union partner with a serious health condition; or,
4. For an employee's serious health condition which renders the employee unable to perform the essential functions of his/her position.

NOTE: Leave for the birth or placement for adoption or foster care must conclude within twelve months of the birth or placement.

B. For purposes of this policy, a "serious health condition" means an illness, injury, impairment or physical or mental condition that:

1. Poses imminent danger of death;
2. Requires inpatient care in a hospital, hospice or residential-medical care facility;
3. Requires continuing treatment by or under the supervision of a health care provider in one of the following five circumstances (a.-e.):

- a. For a period of incapacity of more than 3 consecutive calendar days that also involves:
 - (1) treatment two or more times by or under the supervision of a health care provider; or,
 - (2) treatment by a health care provider on at least one occasion resulting in a regimen of continuing treatment under the supervision of the health care provider;
 - b. Any period of incapacity due to pregnancy or for prenatal care;
 - c. Any period of incapacity or treatment due to a chronic, serious health condition. A chronic serious health condition is one which:
 - (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and,
 - (3) May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy).
 - d. A permanent or long-term period of incapacity for which treatment may not be effective (e.g. stroke, Alzheimer's);
 - e. Any period of absence to receive multiple treatments (e.g. chemotherapy, physical therapy, kidney dialysis);
4. Requires continuing in-home care under the direction of a physician.

III. DURATION

- A. An FMLA leave of absence is defined as an unpaid leave of absence of up to 12 work weeks during the 12-month period measured from the date the employee first begins his/her FMLA leave.
- B. In calculating the amount of FMLA leave used by an employee, dates that the District's business activity has ceased for one or more weeks (i.e.: summer and school vacations) are not counted against the leave period.
- C. Under certain circumstances, FMLA leave may be taken "intermittently" that is, taking leave in separate blocks of time or by reducing the usual number of work hours per work week or hour per work day. The employee requesting intermittent leave may be transferred temporarily to an alternative job that better accommodates recurring periods of leave. The position will provide equivalent pay and benefits, (although pro-rated if reduced hours are worked.)
- D. If a teacher, or other "instructional employee" as defined by law, requires intermittent leave or a leave on a reduced leave schedule for planned medical treatment that requires the teacher to be on leave for more than twenty percent (20%) of the teacher's total number of working days during the period of time that the leave would occur, the district may require the teacher to choose either to:

1. take a complete leave of absence for a period or periods of a particular duration, not greater than the duration of the planned treatment, or
 2. transfer temporarily to an available alternative position for which the teacher is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the teacher's regular position.
- E. In the event a teacher or other instructional employee begins a leave under this policy more than five (5) weeks before the end of an academic term (semester), the District may require the teacher/employee to continue his/her leave until the end of the term/semester if:
1. the leave will last a minimum of three (3) weeks, and
 2. the teacher would otherwise return to work the three week period before the end of the term/semester.
- F. In the event that a teacher or other instructional employee begins a leave under this policy for a purpose other than the teacher's own serious health condition, during the five week period before the end of an academic term/semester, the District may require the teacher to continue his/her leave until the end of the term/semester if:
1. the leave will last more than two (2) weeks, and
 2. the employee would otherwise return to work during the two-week period before the end of the term/semester
- G. In the event that the teacher or other instructional employee begins the leave under this policy for a purpose other than the teacher's own serious health condition, during the three week period before the end of an academic term/semester, and the leave will last more than five (5) working days, the District may require the employee to continue taking leave until the end of the academic term/semester.

NOTE: For paragraphs D, E, F and G above, if the District requires a teacher to take more leave than he/she requested, the amount of additional leave required by the District for purposes of completing the academic term/semester will not be counted as leave utilized by the teacher under this policy and the District shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

For purposes of this policy and specifically this section, the law defines "Teacher" or "instructional employee" as: an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting. It includes: athletic coaches, driving instructors and special educational assistants such as signers for the hearing impaired. It does not include: teacher assistants or aides who do not as their principal function actual teaching or instructing. It also does not include: counselors, psychologists, curriculum specialists, or other non-instructional employees.

IV. NOTICE / COMMENCEMENT OF LEAVE

- A. If the need for FMLA leave is foreseeable the employee must provide thirty (30) days notice before the leave is to begin. Otherwise, notice must be given as soon as practicable. Notice must be given to the Superintendent or designee. Notice may be given in person, in writing, by telephone, telegraph, facsimile or other electronic means, or by the employee's spokesperson if the employee is

unable to do so personally. An employee giving notice of the need for FMLA leave must explain the reasons for the leave in order to allow the Superintendent or designee to determine that the leave does nor does not qualify as family or medical leave. Additionally, the notice should specify the date the leave is expected to commence and the estimated duration of the leave. Once the District is aware of the facts underlying the employee's need for a leave, the Superintendent/designee will determine whether or not the employee is qualified for leave within 3 days under this policy and will give the employee the following in writing:

- Notice to Employee of FMLA Status (Appendix 1),
- Medical Certification form (Appendix 2)
- Vermont's Laws on Parental Leave, Family Leave and Short Term Family Leave (Appendix 3),
- Your Rights under the Family and Medical Leave Act of 1993 - Federal (Appendix 4),
- And a copy of this policy.

If the employee does not give the thirty days notice for foreseeable leave with no reasonable excuse, the District may delay the taking of the leave up to thirty dates after the time the employee gives notice. Leave may also be denied until the employee submits medical certification of the need for leave.

- B. In situations where the employee's need for leave is not foreseeable (e.g., unexpected serious health conditions), the employee must provide notice of the need for leave as soon as is practicable. Once the District is aware of the facts underlying the employee's need for a leave, the Superintendent/designee will determine whether or not the employee is qualified for leave under this policy and will give notice of the determination to the employee.

V. MEDICAL CERTIFICATION

- A. An FMLA leave based on the serious health condition of the employee or the employee's spouse, child, parent or parent of the employee's spouse (or civil union partner) requires the employee to provide certification from the appropriate health care provider to support the request. Failure to provide certification will result in the denial of the request for leave. The certification must state the date on which the health condition commenced, the probable duration of the condition and the appropriate medical facts regarding the condition. The form attached to this policy should be used to provide this certification. The certification should be sent to the Superintendent/designee to assure confidentiality.
- B. When leave is foreseeable and at least thirty days notice has been provided, the employee should provide the medical certification before the leave begins. If this is not possible, the employee must provide the certification to the Superintendent/designee upon request within the time frame requested, which will allow at least fifteen calendar days after the request unless it is not practicable under the circumstances.
- C. If the employee is needed to care for a spouse, civil union partner, child, stepchild, foster child, ward (who lives with the employee), parent, parent of the employee's spouse or parent of the employee's civil union partner; the certification must so state, along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must confirm that the employee cannot perform the functions of his or her job.

- D. A second or third medical opinion, at the District's expense, may be required. The second medical opinion will be provided by a health care provider not employed by the District. If the first and second opinion differ, the District, at its expense, may require the binding opinion of a third health care provider approved jointly by the District and the employee.
- E. Periodic reports of the employee's status may be required during the leave period.

VI. PAID LEAVE / BENEFIT CONTINUATION

- A. At the option of the employee and consistent with existing District policies, certain kinds of "paid leave" which are provided by the District may be substituted for (i.e., used concurrently with) unpaid FMLA leave. For example, any vacation, personal or family leave to which the employee is entitled may be substituted for leave relating to the birth of an employee's child, placement in the employee's home of a child for adoption or foster care, or to care for an employee's spouse, child, parent or parent of the employee's spouse (or parent of a civil union partner) with a serious health condition.
- B. Any paid sick leave or disability benefits will automatically be applied (unless indicated otherwise by the employee) when an employee is on an approved FMLA leave for the employee's own serious health condition provided doing so is consistent with existing policies regarding such leave/benefits.
- C. Time off for work-related injuries that meet the criteria for a serious health condition will also be treated as family/medical leave time. This can include situations where an employee is receiving Workers' Compensation benefits.
- D. During a period of approved family or medical leave, an employee will be retained on the District's health insurance plan under the same conditions as if the employee were still at work. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Arrangements must be made with the employee's payroll officer for employees to pay their health insurance co-payments while on leave. The employee's failure to make these payments may result in cancellation of coverage.
- E. During a period of approved family or medical leave, an employee may also be retained on the District's other insurance plans (non-health insurance) for the duration of the leave provided the employee pays the full cost of the insurance premiums for said plans. Arrangements must be made with the District's payroll officer for the employee to pay his/her other premiums while on leave. The employee's failure to make the premium payments may result in cancellation of coverage.
- F. In the event an employee elects not to return to work upon completion of a family or medical leave, the District may recover from the employee the cost of any payments made to maintain the employee's coverage except where the employee does not return because of the continuance, recurrence or onset of a serious health condition or other circumstances beyond the employee's control.

VII JOB RESTORATION

- A. After the leave ends, the employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits and other terms and conditions of employment. Restoration may be delayed if an employee who fails to provide any

required fitness for duty certification to return to work. The District does not guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by the District.

- B. An employee on leave does not have greater job protection than if the employee had been continuously employed. For example, employees will not be restored to their original or an equivalent job if the employee had been informed prior to requesting leave that employment would terminate or if the position would have been eliminated for reasons unrelated to the leave.

- C. Additionally, job restoration may be denied to salaried "eligible" employees (i.e.: "Key Employees") who are among the highest paid 10% of employer's employees within 75 miles of the worksite if such denial is necessary to prevent substantial and grievous economic injury to the District's operations. Employees who are in this category will be notified of his or her status as a "Key Employee" in response to the employee's notice of intent to take leave or when the leave commences, if earlier and the employee will be notified of the potential consequences with respect to reinstatement and maintenance of health benefits. Further, as soon as the District decides it will deny job restoration, it will notify the employee in writing of its determination, explain the reasons for this decision; if leave has commenced, offer the employee a reasonable opportunity for return to work from leave after giving this notice, and make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee request restoration. Notice will be provided in writing in person or by certified mail.

	Fairfield	Town	City	FCSU	BFA
1 st Reading	12/12/05	12/14/05	12/08/05	12/15/05	12/06/05
Date Warned:	12/30/05	12/29/05	12/30/05	02/04/06	12/19/05
Date Adopted:	01/09/06	01/11/06	01/12/06	02/16/06	01/03/06