
FAMILY AND MEDICAL LEAVE PARENTAL LEAVE AND EXTENDED LEAVES

1.0 Purpose

The Family and Medical Leave Act of 1993 (the “FMLA”) requires that the Board allow at least up to twelve (12) weeks of unpaid leave in any twelve (12) month period for eligible employees who must miss work because of one of the following circumstances:

- 1.1 the birth or adoption of a child
- 1.2 the placement of a foster child
- 1.3 to care for spouse, son, daughter or parent of the employee, if such relative has a serious health condition
- 1.4 an employee’s serious health condition that makes the employee unable to perform the functions of the position assigned.

The Board shall consider employees to be entitled to FMLA leave in accordance with the definitions, criteria and notice procedure set forth in the FMLA and regulations promulgated thereunder. The Board observes a twelve (12) month period commencing on July 1st and ending on June 30th of the next ensuing year in administering FMLA leave. No policy, procedure or action by the Board shall constitute a waiver of the requirements of the FMLA and applicable Federal regulations. The following explanation of the FMLA is provided for general information only. Any specific questions or requests for FMLA should be directed to the Assistant Superintendent responsible for personnel.

2.0 Employee Eligibility

The Board shall consider employees to be eligible for FMLA leave in accordance with the criteria set forth in the FMLA and regulations promulgated thereunder. The general eligibility criteria are generally described as follows:

- 2.1 must have been employed by the Board for at least twelve (12) months; and
- 2.2 must have worked at least 1,250 hours during the immediately preceding twelve (12) months.

In addition, employees must comply with all applicable time frames for providing notice of the need for FMLA leave and certification of a serious health condition.

3.0 Serious Health Condition

The FMLA regulations define a serious health condition as an illness, injury, impairment or physical or mental condition that involves one (1) of the following situations.

FOR FMLA PURPOSES, INCAPACITY, MEANS INABILITY TO WORK, ATTEND SCHOOL, OR PERFORM OTHER REGULAR DAILY ACTIVITIES AS A RESULT OF THE SERIOUS HEALTH CONDITION, TREATMENT THEREFORE, OR RECOVERY THEREFROM.

- 3.1 Hospital Care** – Any period of incapacity (see above) or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility.
- 3.2 Absence Plus Treatment** – Any period of incapacity (see above) **of more than three (3) consecutive calendar days**, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
- 3.2.1** Two (2) or more visits to a health care provider, or to other medical personnel directly supervised by the health care provider or to a provider of health care services (e.g., physician therapist) under the orders of or referred by a health care provider for the treatment of the illness or injury in question; or
 - 3.2.2** At least one (1) visit to a health care provider for treatment of the injury or illness resulting in a regimen of supervised continuing treatment to resolve the condition. A regimen of medication or therapy is contemplated by this scenario. The taking of over-the-counter medications or bed rest, taking fluids and other activities that can be initiated without visiting a health care provider, however, is not alone sufficient to constitute a “regimen of continuing treatment” under the FMLA.
- 3.3 Pregnancy** – Any period of incapacity (see above) as a result of pregnancy or for prenatal care.
- 3.4 Chronic Conditions Requiring Treatments** – Any period of incapacity or treatment for such incapacity due to a “chronic” serious health condition. A chronic condition is one that (a) requires periodic visits to a health care provider or medical personnel directly supervised by the health care provider, for treatment of the condition; (b) continues over an extended period of time; and (c) may cause episodic, rather than continuing, periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.)
- 3.5 Permanent/Long Term Conditions Requiring Supervision** – A period of permanent or long-term incapacity (see above) as a result of a condition for which treatment may not be effective, that requires continual supervision of a health care provider even though the provider may not be actively treating the suffering individual. People suffering from Alzheimer’s disease, severe strokes or the terminal states of illness may fit into this category.
- 3.6 Multiple Treatments (Non-chronic Conditions)** – Any period of absence to receive or recover from multiple treatments by a health care provider (or by a provider of health care services under orders of, or referral by, a health care provider) for (a) restorative surgery after an accident or other injury, or (b) for a condition likely to result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention (e.g., cancer-chemotherapy; severe arthritis-physical therapy; kidney disease-dialysis).

4.0 Leave Request Process

Employee Designated Leave: An eligible employee desiring to take FMLA leave must give the Board notice at least thirty (30) days prior to the time when leave is desired, or as soon as possible (at least one (1) or two (2) days in advance) when need for the leave is not

known thirty (30) days in advance. In cases where the leave is foreseeable, the Board ask that the employee give as much advance notice as possible to allow the Board to make the necessary adjustment to staffing or operations. In emergency situations, notice may be given by a representative of the employee if the employee is unable to call.

Employer Designated Leave: There may be circumstances under which the Board will designate leave as FMLA leave. The Assistant Superintendent responsible for personnel will determine whether or not an absence qualifies as FMLA leave. The notification to the employee will be in writing.

Intermittent Leave: Under some circumstances, employees may be entitled to intermittent leave. An employee entitled to intermittent leave has a duty under FMLA to work out a schedule that does not disrupt the Board’s operations.

Leave Period: The Board uses the year (July 1st – June 30th) method of calculating how much FMLA leave is available and/or remaining.

5.0 Physician Certification

The Board requires a Physician Certification for FMLA leave related to the serious health condition of the employee or the family member of an employee. The required forms must be obtained from the personnel. This certification must be completed and returned to the Board within fifteen (15) days unless a medical emergency prevents it. Under such circumstances, the Board will grant a reasonable amount of time for the information to be submitted. If the employee fails to provide the certification, FMLA leave may be delayed, denied, or revoked.

6.0 Recertification

Depending on the circumstances of the leave, the Board may require periodic recertification of the medical conditions. If there is reasonable doubt of the validity of the certification, or the circumstances described by the original certification leave have changed significantly, the Board will require the employee to obtain a second or third medical opinion (as authorized by the FMLA) at the Board’s expense.

7.0 Fitness for Duty Certification

The Board will require all employees who are on FMLA leave for a serious health condition to submit a fitness for duty certification from their physician prior to returning to work. This certification must be submitted to the Human Resources Department prior to the start of the first return day.

8.0 Health Benefit Continuation

An employee who is taking FMLA leave is entitled to have all his/her health care benefits

maintained during that leave. The Board requires those employees making co-payments to continue making these payments while on leave. If an employee is more than thirty (30) days later on making such a payment, the health insurance coverage will cease.

An employee's own insurance coverage shall continue during a approved leave of absence, subject to the terms and conditions of the plan. Dependent insurance coverage shall only continue if the employee makes the required monthly co-payment in a timely manner.

9.0 Failure to Return to Work at Completion of Leave

Under certain circumstances, if an employee fails without good reason to return to work at the conclusion of the FMLA leave, the Board may be entitled to recover its cost of the health care premium directly from the employee. In addition, an employee who fails to return to work at the conclusion of FMLA leave may be subject to disciplinary action up to and including discharge.

10.0 Substitution of Paid Leave

The Board currently provides paid leave of varying lengths, depending on the nature of the absence, insurance coverage, and individual circumstances. These policies will continue in effect and be supplemented by the provisions of the FMLA so that by combing all of the applicable periods of paid or unpaid benefits provided by the Board, eligible employees may receive up to a total of twelve (12) weeks leave in any twelve (12) month period. Accordingly, the Board requires employees to substitute all accrued leave before taking unpaid FMLA leave. The paid leave will be charged towards the FMLA leave entitlement.

11.0 Other Benefits During FMLA Leave

Any employee taking an approved leave of absence shall not become entitled to any additional benefits while on the leave of absence. Upon return from an approved leave of absence, an employee entitlement benefits shall resume from the level at which such benefit were entitled as of the last date worked prior to the leave of absence, taking into consideration any benefits taken during the leave of absence.

12.0 Confidentiality of Medical Information

As with all other medical information, FMLA information will be maintained by the personnel office in a confidential medical file as required by Federal law.

13.0 Disciplinary Action

The FMLA was enacted to allow employees the ability to balance work and family life without losing their job. The Board strongly supports the purpose of this law. It is important; however, that employees do not take leave for purposes other than that which FMLA designates. An employee providing false or misleading information in his/her request for FMLA will be subject to disciplinary action up to and including termination.

14.0 Parental Leave

The Parental Leave Act (West Virginia Code 21-5D-1 et seq.) requires that the Board allow at least up to twelve (12) weeks of unpaid leave in any twelve (12) month period, following the exhaustion of all annual and personal leave, for eligible employees who must miss work because of one (1) of the following circumstances:

14.1 because of the birth of a son or daughter of the employee

14.2 because of the placement of a son or daughter with the employee for adoption

14.3 in order to care for the employee's son or daughter, spouse, parent or dependent who has a serious health condition.

The Board shall consider employees to be entitled to parental leave in accordance with the definitions, criteria and notice procedure set forth in the Parental Leave Act. No policy, procedure or action by the Board shall constitute a waiver of the requirements of the Parental Leave Act. The following explanation of the Parental Leave Act is provided for general information only. Any specific questions or request for parental leave should be directed to the Assistant Superintendent responsible for personnel.

15.0 Employee Eligibility

The Board shall consider employees to be eligible for Parental Leave in accordance with the criteria set forth in the Parental Leave Act. The general eligibility criteria are generally described as follows: A full-time employee who has worked at least twelve (12) consecutive weeks for the Board. The Superintendent shall not be considered an employee for the purpose of this policy.

16.0 Serious Health Condition

The Parental Leave Act defines a serious health condition as a physical or mental illness, injury or impairment that involves one (1) of the following situations:

16.1 inpatient care in a hospital, hospice or residential health care facility

16.2 continuing treatment, health care or continuing supervision by a health care provider.

17.0 Leave Request Process

17.1 Employee Designated Leave – If a leave because of birth or adoption is foreseeable, the employee shall provide the Board with two (2) weeks written notice of such expected birth or adoption. If a leave under this section is foreseeable because of planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the Board, subject to the approval of the health care provider of the employee's son, daughter, parent or dependent; and the employee must provide his/her supervisor with written notice two (2)

weeks prior to the expected birth or adoption; or for the medical treatment; or for the supervision of a dependent. Failure to submit a written request may be cause for denial.

17.2 Intermittent Leave – An employee may take family leave on a part-time basis and on a part-time leave schedule, but the period during which the number of work weeks of leave may be taken may not exceed twelve (12) consecutive months, and such leave shall be scheduled so as not to disrupt unduly the operations of the Board.

17.3 Leave Period – The Board uses the year (July 1st – June 30th) method of calculating how much parental leave is available and/or remaining.

18.0 Physician Certification

If an employee requests family leave to care for a family member with a serious health condition, the Board may require the employee to provide certification by a health care provider of the health condition. The certification shall be sufficient if it contains the following:

18.1 that the child, dependent, parent or employee has a serious health condition

18.2 the date the serious health condition commenced and its probable duration

18.3 the medical facts regarding the serious health condition.

19.0 Other Benefits During Parental Leave

Nothing in this policy entitles any returning employee to the accrual of any seniority or employment benefits during any period of family leave. During any family leave by an employee, the Board shall continue group health insurance coverage for such employee, provided that the employee shall pay the employer the premium costs of such group health insurance coverage. The Board shall not, because an employee received family leave or medical leave, reduce or deny any employment benefit or seniority which accrued to the employee before leave commenced.

20.0 Confidentiality of Medical Information

As with all other medical information, parental leave information will be maintained by the personnel office in a confidential medical file.

21.0 Failure to Return to Work at Completion of Leave

Under certain circumstances, if an employee fails without good reason to return to work at the conclusion of the leave granted under the Parental Leave Act, the Board may be entitled to recover its cost of the health care premium directly from the employee. In addition, an employee who fails to return to work at the conclusion of leave taken under the Parental Leave Act may be subject to disciplinary action up to and including discharge.

22.0 Disciplinary Action

The Parental Leave Act was enacted to allow employees the ability to balance work and family life without losing their job. The Board strongly supports the purpose of this law. It is

important; however, that employees do not take leave for purposes other than that which the Parental Leave Act designates. An employee providing false or misleading information in his/her request for leave under the Parental Leave Act will be subject to disciplinary action up to and including termination.

23.0 Extended Leave

West Virginia Code 18A-2-2a provides for extended leave without pay for pregnancy, childbirth or adoptive or infant bonding. Such leave may be requested for periods up to one (1) year. An employee shall not be required, but may use accumulated paid leave, prior to taking an extended leave. The Board shall consider employees to be entitled to extended leave in accordance with the definitions, criteria and notice procedure set forth in West Virginia Code 18A-2-2a. No policy, procedure or action by the Board shall constitute a waiver of the requirements of West Virginia Code 18A-2-2a. The explanation of extended leave is provided for general information only. Any specific questions or requests for parental leave should be directed to the Assistant Superintendent responsible for personnel.

AUTHORITY: WV Code 18A-2-2a, WV Code 21-5D-1 et seq.

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