

Palmyra Area School District

SECTION: CLASSIFIED EMPLOYEES

TITLE: FAMILY AND MEDICAL LEAVE ACT OF 1993

ADOPTED: November 13, 2003

REVISED: January 11, 2007

535. FAMILY AND MEDICAL LEAVE ACT OF 1993

I. Scope

A family and medical leave of absence is an approved absence available to eligible employees for up to twelve weeks of unpaid leave during the twelve-month period set forth in this policy. This leave may be taken under particular circumstances that are critical to the family’s life. These leaves are granted by the Palmyra Area School District in accordance with the Family and Medical Leave Act of 1993 (the “Act”) and its regulations. 29 U.S.C. §§2654 et seq. (Supp. 1994); 29 C.F.R. §§825.100-.800 (1995).

II. Definitions

A. ELIGIBLE EMPLOYEE: An employee who has been employed --

- 1, For at least 12 months by the School District before the leave is requested (the 12 months need not be consecutive months); and
2. For at least 1250 hours of actual service by the School District during the 12-month period immediately before the leave starts.

B. EMPLOYMENT BENEFITS: All benefits provided or made available to employees by the School District, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

C. HEALTH CARE PROVIDER:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or
2. Any other person determined by the Secretary of the United States Department of Labor to be capable of providing health care services.

D. REDUCED LEAVE SCHEDULE: A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an

employee.

E. **SERIOUS HEALTH CONDITION:** An illness, injury, impairment, or physical or mental condition that involves --

1. **Inpatient care:** An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity which results in inability to work, attend school or perform other regular daily activities due to the serious health condition, its treatment, or recovery therefrom, or any subsequent treatment in connection with this inpatient care; or

2. **Continuing Treatment by a Health Care Provider:** A serious health condition involving continuing treatment by a health care provider includes any one or more of following:

a. A period of incapacity involving an inability to work, attend school, or perform other regular daily activities due to the serious health conditions, treatment therefore, or recovery therefrom of more than three consecutive calendar days, and any subsequent treatment or period of incapacity related to the same condition, that also involves:

1. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services under orders of or on referral by, a health care provider, or

2. Treatment by a health care provider on at least one occasion which results 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 for this incapacity due to a chronic serious 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, etc.).

d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. (Examples

<p>III. Leave Requirement</p>	<p>include Alzheimer's, a severe stroke, or the terminal stages of a disease).</p> <p>e. Any period of absence to receive multiple treatments, including any period of recovery therefrom, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), kidney disease (dialysis).</p> <p>F. PARENT: The biological parent or an individual who stands in loco parentis.</p> <p>G. SON OR DAUGHTER: A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is --</p> <ol style="list-style-type: none"> 1. Under 18 years of age; or 2. Eighteen years of age or older and incapable of self-care because of a mental or physical disability. <p>H. SPOUSE: A husband or wife.</p> <p>I. 12-MONTH PERIOD: The rolling twelve-month period measured backward from the date an employee uses any leave pursuant to the Act or this policy.</p> <p>An eligible employee shall be entitled to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following:</p> <ol style="list-style-type: none"> A. The birth of a son or daughter of the employee and the care for this son or daughter. B. The placement of a son or daughter with the employee for adoption or foster care. C. Care for the spouse, son, daughter, or parent, the employee, if the spouse, son, daughter, or parent has a serious health condition. D. The employee's own serious health condition that makes the employee unable to perform the functions of his or her position. <p>A. The unpaid leave of absence described in Part III does not</p>
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<p>IV. Leave Process</p>	<p>diminish any leave accorded through any other parental, family, or medical leave policy or agreement of the School District.</p> <p>B. The unpaid leave of absence described in Part III, A, B, and C will commence after the employee has exhausted all personal, vacation, family, emergency, and other available leave with the exception of sick leave. Employees may save up to ten (10) sick days to be utilized upon their return work. This option will be at the discretion of the employee whether to use all unused sick leave or save up to ten (10)days. The use of other leaves of absence will decrease in part or whole the 12 workweeks of unpaid leave.</p> <p>C. The unpaid leave of absence described in Part III, D will commence after the employee has exhausted all personal, vacation, family, emergency, sick or medical, and other available leave. This use of other leaves of absence will decrease in part or whole the 12 workweeks of unpaid leave.</p> <p>D. The employee shall make a reasonable effort to schedule the treatment to avoid disrupting the School District's operations, subject to the approval of the health care provider of the employee or health care provider of the son, daughter, spouse, or parent of the employee, as appropriate. A 30 calendar day notice before the date foreseeable leave is to begin shall be provided by the employee when practical.</p> <p>E. If both spouses are employed by the School District as eligible employees, each employee shall be entitled to up to 12 weeks of leave, whether such leave is for III(A) (Birth), III(B) (Adoption or Foster Care), III(C) (Care), or III(D) (Personal Serious Health Condition).</p> <p>F. If an eligible employee who is employed principally in an instructional capacity begins leave:</p> <ol style="list-style-type: none"> 1. More than five (5) weeks before the term's end, the District may in its sole discretion require such employee to continue taking leave until the end of the term if the leave is of at least three weeks' duration and the return would occur during the three-week period before the end of such term. 2. Five weeks or less before the term's end, except for leave under Section III.D., the District may require such employee to continue taking leave until the end of the term if leave will last more than two weeks and the return would occur during the two-week period before the end of such term.
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**V. Intermittent
Leave or Reduced
Schedule Leave**

3. Three weeks or less before the term's end, except for leave under Section III.D., the District may require such employee to continue taking leave until the end of the term if the leave will last more than five working days.

- A. No employee may take intermittent leave or schedule leave under III (A) or (B) of this policy.
- B. An eligible employee may take intermittent leave or reduced schedule leave under III(C) or (D) that is medically necessary and not foreseeable, subject to Sections C, D, E, and F below.
- C. If an eligible employee (i) is not employed principally in an instructional capacity; and (ii) requests leave under II(C) or (D) that is foreseeable based on planned treatment that is medically necessary, the School District may require that the employee transfer temporarily to an available alternative position (for which such employee is qualified) offered by the School District if the alternative position:
1. Has equivalent pay and benefits; and
 2. Better accommodates recurring periods of leave than the regular employment position.
- D. If an eligible employee (i) is employed principally in an instructional capacity; (ii) requests leave under II(C) or (D) that is foreseeable based on planned medical treatment; and (iii) would be on leave for greater than twenty percent of the total number of working days in the period during which the leave would extend, the School District may require that the employee elect either:
1. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
 2. To transfer temporarily to an available alternative position (for which such employee is qualified) offered by the School District if the alternative position:
 - a. Has equivalent pay and benefits; and
 - b. Better accommodates recurring periods of leave than the regular employment position.

VI. Certification

E. For any employee to request intermittent leave or reduced schedule leave under III(C), the written certification under Section VI, *infra*, shall include a statement (1) of the dates on which planned medical treatment is expected to be given; (2) of the duration of such treatment; (3) that the employee's intermittent leave or reduced schedule leave is (i) necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or (ii) will assist in their recovery; and (4) of the expected duration and schedule of the intermittent leave or reduced leave schedule.

F. For any employee to request intermittent leave or reduced schedule leave under III(D), the written certification under Section VI, *infra*, shall include a statement of (1) the dates on which planned medical treatment is expected to be given; (2) the duration of such treatment; (3) the medical necessity for the intermittent leave or reduced schedule leave; and (4) the expected duration and schedule of the intermittent leave or reduced leave schedule.

A request under III(C) (Care) and (D) (Serious Health Condition) shall be supported in a timely manner with a written certification issued by the appropriate health care provider.

A. The written certification shall provide all information identified in DOL Medical Certification (Form WH-380), or in any revisions to or replacements of this form.

B. Second Opinion

The School District may require, at the expense of the School District, that the eligible employee obtain the opinion of a second health care provider designated or approved by the School District, who is not an employee of the District. If the second opinion differs from the first opinion, the School District may require at its expense a third opinion by a health care provider designated or approved jointly by the employer and the employee concerning the information certified under Section VI.B., which shall be considered final and binding on both parties.

C. The School District may require that the eligible employee obtain subsequent re-certifications on a reasonable basis.

D. The employee must supply the School District with a certification from the health care provider stating the employee may resume work.

VII. Job

<p>Restoration Rights</p>	<ul style="list-style-type: none"> A. An employee taking leave under Section III shall not lose any employment benefit accrued prior to the date on which the leave commenced. B. The School District shall maintain coverage under any “group health plan” (as defined in Section 5000(b)(1) of Title 26, United States Code) for the duration of the leave at the same level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. C. An employee returning from leave under Section III shall be restored to the employee’s original job or an equivalent job with equivalent pay, benefits, and other employment terms and conditions, at the same worksite or one that is geographically located within the District. D. If the employee does not return from the leave, the School District may recover from the employee the premium that was paid for the “group health plan” during the unpaid leave, unless circumstances beyond the control of the employee prevent the return to work.
<p>VIII. Job Restoration Rights</p>	<ul style="list-style-type: none"> A. An employee who returns from leave taken under the Act or this policy will be returned to the employee’s original job or to an equivalent job with equivalent pay, benefits and other employment terms and conditions, at the same worksite or one that is geographically located within the District. B. An employee who returns from leave taken under this policy will not lose any employment benefit which that employee earned or was entitled to before taking leave.
<p>IX. Conflict with Act or Regulations</p>	<p>In the event that any section or part of this policy is in Conflict with the Act or its regulations, the Act or its Regulations shall control in making the applicable Determination.</p>