

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

TEACHING STAFF MEMBERS  
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Medical and Family Leave

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3431.1 MEDICAL AND FAMILY LEAVE - REPEALED

This policy has been repealed. Refer to Policy 1643.

Date of Repeal:

~~In accordance with the federal Family and Medical Leave Act (FMLA) and under the New Jersey Family Leave Act (FLA), the Board of Education will grant eligible teaching staff members up to twelve (12) weeks leave of absence in any twenty four (24) month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with the adoption of such child by the staff member, or the serious health condition of a spouse, domestic partner, parent, child or the staff member.~~

~~No staff member shall be required to take medical or family leave or to extend medical or family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his or her rights under the federal Family and Medical Leave Act or the New Jersey Family Leave Act nor discouraged from the use of medical or family leave.~~

~~For the purposes of this policy, a "parent" is a biological, adoptive, or foster parent; stepparent; parent in law; a legal guardian having a parent child relationship with a child as defined by law; or a person who has sole or joint legal or physical custody, care, guardianship, or visitation with a child. A "child" is defined as the biological, adopted or foster child, step child, legal ward, child of a parent who is under eighteen (18) years of age or a child eighteen years or older who is incapable of self care because of a mental or physical impairment. "Serious health condition" is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider. "Family leave" is leave taken pursuant to the FMLA and the FLA. "Staff member" is an employee eligible for family leave in accordance with the FMLA and the FLA. A "week" is the number of days an employee normally works each calendar week.~~

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Eligibility:

~~A staff member shall become eligible for family leave after he or she has been employed at least twelve months in this district for not less than one thousand base hours, including overtime, or twelve hundred and fifty hours for medical leave, during the immediate preceding twelve month period. The calculation of the twelve month period to determine eligibility shall commence with the commencement of the family leave. Full time teachers are deemed to satisfy the 1250 hours requirement under the FMLA if they have completed twelve months of employment and work a regular, full time teaching schedule. Family leave taken for the birth or adoption of a healthy child may commence at any time within a year after the birth or placement for adoption.~~

~~During any period of the leave, a staff member is prohibited from performing any services on a full time basis for any person for whom the staff member did not provide services immediately prior to the commencement of the leave. A staff member on family leave may commence part time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part time employment~~

which commenced prior to the family leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

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### **Types of Leave**

A staff member may take family leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.

In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. If the total time within which the leave is taken does not exceed a twelve-month period for each serious health condition episode, the staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable, and the staff member makes a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.

1 Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule except the staff member is not entitled to a reduced leave schedule for a period exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken upon the birth or adoption of a healthy child. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.

2 A one- or two-day holiday occurring within the week taken by a staff member as Family Leave has no effect and the week is counted as a week of medical or family leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the days the school district is closed for this staff member do not count against the staff member's family leave entitlement.

### **Notice**

A staff member eligible for family leave must give at least thirty (30) days' advance notice in writing to the Superintendent or his/her designee of the need to take family leave, except where the need to take family leave is not foreseeable. In such cases, the staff member must provide notice as soon as practicable. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent or his/her designee, but any verbal notice must be followed by written notice delivered within ten (10) days.

1 Notice for leave to be taken for the birth or placement of a child for adoption shall be given at least thirty (30) days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is reasonable and practicable.

2 Notice for leave to be taken for the serious health condition of a family member shall be given at least fifteen (15) days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen (15) days, the employee shall provide such notice as is reasonable and

practicable.

When the Superintendent or his/her designee is not made aware that a staff member is absent for family leave reasons and the staff member wants to request that the leave be counted as family leave, the staff member must provide timely notice within two (2) business days of returning to work to have the time considered in accordance with the Family Leave Act.

#### **Benefits**

Medical or family leave shall be unpaid leave as per the FMLA and the FLA. Employees on medical leave, however, may be eligible for salary continuation under the NJ Temporary Disability Benefits Program, or Workers' Compensation Insurance, depending on the cause and nature of the medical condition.

In accordance with law, the Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the staff member had continued in employment continuously from the date the staff member commenced the leave to the date the staff member returned to work or the date on which the staff member's coverage would have expired had the employee not been on leave, whichever is sooner.

A staff member returning from medical or family leave shall be entitled to the position he or she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would not have lost his or her position had the staff member not been on family leave, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes and laws. The staff member's tenure and seniority rights, if any, and other benefits shall be preserved, but the staff member shall accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of a staff member prior to the expiration of a requested and approved medical or family leave may be permitted by the Board if the return does not unduly disrupt the instructional/educational program or require the Board to incur the cost of continuing the employment of a substitute under contract. If an employee requests leave that would have him/her returning to work during the weeks preceding the end of the school year, the Board may exercise its right to extend the leave through the end of the school year under certain circumstances.

If an employee fails to return to work following an approved medical or family leave, the Board has the right to bring an action to recover the cost of premiums paid for the employee's health insurance benefits throughout the period of the leave. Medical or family leave granted to a non-tenured staff member cannot extend the staff member's employment beyond the expiration of his or her employment contract.

To prevent substantial and grievous economic injury to the school district's operations, the district may deny family leave to a staff member if the staff member is a salaried employee who is among the highest paid five percent of the school district staff or one of the seven highest paid employees of the district, whichever group is greater in number. The Superintendent shall notify the staff member of the intent to deny the leave at the time that the Superintendent determines such denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member shall return to work within ten (10) working days of the date of notification.

#### **Verification of Leave**

The Board shall require the certification of a duly licensed health care provider verifying the purpose of requested medical or family leave. Certification of a serious health condition of a family member of the staff member shall be deemed sufficient if it states the date on which the condition commenced, the probable duration of the condition and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child for adoption need state only the date of birth or the date of placement, whichever is appropriate.

~~In the event the Superintendent or his/her designee doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require the staff member to obtain at district expense an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification, the district may require that the staff member obtain at district expense the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider shall be final and binding on the district and the staff member.~~

~~In order that a staff member's entitlement to medical or family leave can be properly determined, the Superintendent shall insure the keeping of accurate attendance records that distinguish medical or family leave from other kinds of leave.~~

~~29 U.S.C. 2601 et seq. 29 C.F.R. 825.100 et seq.  
N.J.S.A. 34:11B-1 et seq.  
N.J.A.C. 13:14-1 et seq.~~

~~Cross Reference: 4431.1~~

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