

HOPKINTON SCHOOL COMMITTEE

FAMILY AND MEDICAL LEAVE

Subject to the conditions set forth herein, the School Department will provide eligible employees with up to twelve weeks of unpaid family/medical leave ("FMLA leave") in a twelve-month period for one or more of the following reasons:

- The birth of a child and in order to care for the newborn;
- The adoption or placement of a child for foster care with the employee;
- To care for a child, spouse, or parent with a serious health condition;
- Because of the employee's own serious health condition that makes the employee unable to perform the essential functions of his/her position.
- Any qualifying exigency, as defined in P.L. 110-181, Section 585(a), arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

Additionally, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member, as defined in P.L. 110-181, Section 585(a), who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member.

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either: (1) inpatient care, including any period of incapacity or any subsequent treatment; or (2) continuing treatment by a health care provider. Further explanation of circumstances constituting a "serious health condition" is contained in the Medical Leave Certification Form that must be completed by a health care provider to certify the need for leave.

Employees eligible for FMLA leave are regular full-time or regular part-time employees who have completed at least twelve months of service with the School Department and have worked a minimum of 1,250 hours in the 12-month period preceding the commencement date of the leave.

Leave Entitlement and Duration

Eligible employees are entitled up to a total of 12 workweeks of leave during a 12-month period (except for those entitled to 26-week period to care for ill or injured military service members). The 12-month period is measured backward from the date an employee uses any FMLA leave. Thus, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks that has not been used during the immediately preceding 12 months. All FMLA leave will run concurrently with other similar leaves mandated by state or local law, and all vacation, personal leave, and sick leave used during the leave will be included as part of the 12 workweek period provided by this policy.

For birth of a child or in order to care for the newborn, adoption or placement of a foster child, leave must be taken in consecutive workweeks and completed within the 12-month period following the birth, adoption, or placement of the child with the employee.

For leave to care for a child, spouse, or parent with a serious health condition or for the employee's own serious health condition, leave may be taken on a consecutive basis or intermittently, or the employee may request to be placed on a reduced leave schedule.

"Intermittent leave" is leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday.

Special rules affect the taking of intermittent leave or leave on a reduced leave schedule or leave near the end of an academic term or semester by "instructional employees." See further discussion below.

For nonconsecutive periods of leave, if an employee requests an intermittent or reduced leave schedule due to a serious health condition (either his or that of child, spouse or parent), the School Department may require the employee to transfer temporarily to an alternative position for which the employee is qualified, to better accommodate the recurring periods of leave the employee will require. Employees transferred under such circumstances will receive equivalent salary and benefits. Employees requesting intermittent or reduced-schedule leaves for planned medical treatment for the employee or a covered family member must make a reasonable effort to schedule the treatment so as not to unduly disrupt the School Department's operations.

Notice Requirements

Employees requesting FMLA leave must provide at least 30 days' advance notice before leave is to begin, or if the need for leave is unanticipated, as much advance notice as practicable; normally, notice must be given within two business days of when the need for the leave becomes known. Employees requesting leave are required to complete the School Department's leave of absence form and submit it to the Superintendent at the time the leave is requested, or in the event of unanticipated leave, as soon as possible.

For an employee's own serious health condition or that of a family member, an employee on leave must notify the School Department every 30 days of the status of the condition and intent to return to work. In all cases, when a decision is made by the employee not to return to work, the employee must notify the School Department immediately.

Certification Requirements

The School Department requires certification from a health care provider substantiating a leave request for the serious health condition of the employee or the employee's child, spouse or parent. Certification requirements differ according to whether the leave is for the employee's own serious health condition or for that of a covered family member. The School Department's Medical Leave Certification Form fully explains what information is required. When an employee foresees the need for leave, and has provided at least 30 days notice, he/she should provide such certification before the leave begins. When this is not possible, the employee must provide the certification within 15 days of the School Department's request. Failure to provide certification on a timely basis may delay the leave.

The School Department may require a second, and in some cases a third medical opinion, at the School Department's expense, depending upon the circumstances. During the course of the leave, the School Department may under certain circumstances require additional medical recertification every 30 days. In addition, if the circumstances giving rise to the need for leave have changed significantly, or if the School Department has reason to doubt the validity of the stated reason for the absence, the School Department reserves the right to request recertification at any time.

Where the leave was for the employee's own serious health condition, the School Department also requires medical clearance indicating that the employee can return to work and perform the essential functions of his or her position, with or without reasonable accommodation. Medical certification will also be required from any employee who states that he or she is unable to return to work at the scheduled conclusion of a leave or who requests a leave extension.

Substitution of Paid Leave

Employees on an approved family/medical leave will be required to apply accrued paid sick leave, accrued paid vacation, and accrued paid personal days to family/medical leave as follows:

If leave is taken for the birth of a child or for the adoption or placement of a child for foster care, or on account of the serious health condition of a spouse, child, or parent, then the employee must apply accrued paid vacation and accrued paid personal days, in that order.

If leave is taken on account of the employee's own serious health condition, then the employee must apply accrued paid sick leave, accrued paid vacation, and accrued personal days, in that order.

If an employee's accrued paid leave time is less than twelve weeks, then any remaining family/medical leave will be unpaid.

Benefits During Leave

During a covered family/medical leave, the School Department will maintain an employee's group health insurance coverage at the same level and under the same conditions the employee would receive if not on leave. During any period in which the employee is on paid leave, the employee will have his/her contribution to the health insurance premiums deducted from the paid leave. Upon the exhaustion of any paid leave, the employee must make arrangements to pay his/her contribution to the health insurance premiums. If an employee fails to return to work after his/her family/medical leave has been exhausted or expires, the employee may be required to repay the School Department for health insurance premiums paid by the School Department during the leave. All benefits that operate on an accrual basis, e.g., vacation, will cease to accrue during any period of unpaid family/medical leave.

Restoration of Employment

An eligible employee who takes family/medical leave is entitled to return to his/her former job or to an equivalent job with equivalent benefits, pay, and other terms and conditions of employment. However, no employee is entitled under this policy to any right, benefit, or position other than that to which the employee would have been entitled had he/she not taken leave. Thus, for example, if a layoff or reduction in force or some extenuating circumstances or business condition arises that affects the employee's position, reinstatement may not be possible. Exceptions may also apply for certain highly compensated, "key" employees under certain conditions. Employees on an extended medical leave (i.e., beyond the 12-work week period) are not guaranteed reinstatement.

Special Rules for Instructional Personnel

Intermittent leave, leave on a reduced leave schedule or leave near the end of an academic term or semester is subject to different rules for "instructional employees." Instructional employees are those whose principal function is to teach and instruct students in a class, small group or individual setting.

If an eligible employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the School Department may require the employee to choose between taking leave in a block or transferring temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

If an employee begins leave more than five weeks before the end of a term, the School Department may require the employee to continue taking leave until the end of the term if the leave will last at least three weeks and the employee would return to work during the three-week period before the end of the term.

If an employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of a term, the School Department may require the employee to continuing taking leave until the end of the term if the leave will last more than two weeks and the employee would return to work during the two-week period before the end of the term.

If an employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term and the leave will last more than five working days, the School Department may require the employee to continue taking leave until the end of the term.

Where an employee is required to take leave until the end of a term, only the period of leave until the employee is ready and able to work is counted against the employee's annual FMLA entitlement. Such leave as the School Department requires the employee to take is not counted as FMLA leave.

Administration

All questions about leaves of absence should be directed to the Office of the Superintendent. Leave of absence request and medical certification forms are also available from school principals.

First Reading	
Second Reading	
Third Reading	
Adopted	January 30, 2003
Policy Amended	February 26, 2009
Legal References	P.L. 103-3 "Family and Medical Leave Act of 1993," 29 U.S.C. S 2601 et seq.; Department of Labor Regulations, 29 C.P.R. Part 825; Va Code S 22.1-303. P.L. 110-181, Section 585(a), "National Defense Authorization Act for FY 2008 (NDAA")
Policy Cross Reference	
Procedure Reference	