

#### 4431.1 FAMILY LEAVE

In accordance with the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act, the Board of Education will grant support staff members up to twelve weeks leave of absence in any twenty-four 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 adoption of such child by the staff member, and the serious health condition of a spouse, parent, child or the staff member. A child means a biological, adopted or foster child, stepchild, legal ward, child of a parent who is under eighteen years of age or a child eighteen years of age or older but incapable of self-care because of a mental or physical impairment.

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

For the purposes of this policy, a "parent" is a biological, adoptive, or foster parent; step-parent; 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. "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. A "week" is the number of days an employee normally works each calendar week. "Family leave" is leave taken pursuant to the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act. "Staff member" is an employee eligible for family leave in accordance with the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act.

#### Eligibility

A staff member shall become eligible for family leave after he/she has been employed at least twelve months in this district for not less than one thousand base hours, excluding overtime, 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. Leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

A staff member during any period of the leave 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 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.

## 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.

1. 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.

2. 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.

3. The fact that a holiday may occur within the week taken by a staff member, as Family Leave has no effect and the week is counted as a week of 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.

Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

## Notice

A staff member eligible for family leave must give at least a thirty day advance written notice to the Superintendent of the need to take family leave except where the need to take family leave is not foreseeable. When the need is not foreseeable, the staff member must provide notice "as soon as practicable" which shall be at least verbal notice to the Superintendent within one or two business days of the staff member learning of the need to take family leave. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent, but any verbal notice must be followed by written notice delivered within two working days.

1. Notice for leave to be taken for the birth or placement of the child for adoption shall be given at least thirty 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 days, the employee shall provide such notice that 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 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 days, the staff member shall provide such notice that is reasonable and practicable.

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

#### Benefits

Family leave shall be unpaid leave as per the Federal Family and Medical Leave Act and the New Jersey Family Leave Act.

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 family leave shall be entitled to the position he/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 have lost his/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 Board may permit the return of a staff member prior to the expiration of the requested family leave if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.

Family leave granted to a nontenured staff member cannot extend the employee's employment beyond the expiration of his/her employment contract.

The district may deny Family Leave to the 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 is greater. This denial is necessary to prevent substantial and grievous economic injury to the school district's operations. The Superintendent shall notify the staff member of the intent to deny the leave at the time the Superintendent determines the 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 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 family leave. Certification of a serious health condition of a family member of the staff member shall be 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 need only state the date of birth or date of placement, whichever is appropriate.

In the event the Superintendent doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require, at the district's expense, the staff member to obtain 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, at the district's expense, that the staff member obtain 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 family leave can be properly determined, the Superintendent shall ensure the keeping of accurate attendance records that distinguish family leave from other kinds of leave.

29 C.F.R. 825.200 et seq.  
N.J.S.A. 34:11B-1 et seq.  
N.J.A.C. 13:14-1 et seq.

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