

Wilson County Board of Education

Policy Description:

Family and Medical Leave

Page 1 of 5

Policy Number:

5.305

Amended Date:

03/02/09

Rescinds:

Issued:

06/03/04

1 **PURPOSE**

2

3 To provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical
4 Leave Act of 1993.

5

6 **GUIDELINES**

7

8 **Eligible Employee:** Eligible employees are those who have been employed for at least one (1) year and for at
9 least 1,250 hours during the preceding 12-month period is eligible for family and medical leave.

10

11 **Parent:** A biological parent or an individual who stands or stood in loco parentis (in the place of a parent) to an
12 employee when the employee was a son or daughter as defined below.

13

14 **Son/Daughter/Child:** Biological, adopted or foster child, a step child, legal ward, or child of a person standing in
15 loco parentis, who is either under the age of eighteen (18) , or age eighteen (18) or older and "incapable of self
16 care because of a mental or physical disability.

17

18 **Serious Health Condition:** A serious health condition is an illness, injury, impairment, or physical or mental
19 condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care
20 provider for a condition that either prevents the employee from performing the functions of the employee's job, or
21 prevents the qualified family member from participating in school or other daily activities. Subject to certain
22 conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3)
23 consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a
24 regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other
25 conditions may meet the definition of continuing treatment.

26

27 **Twelve (12) month FMLA Period:** The twelve (12) month period during which an employee is entitled to (12)
28 weeks of family or medical leave is from the first day of the leave forward.

29

30

31

32

33

1 **REASONS FOR LEAVE**

2
3 All employees who meet the applicable time of service requirements may be granted family or medical leave
4 consisting of appropriate accrued paid leave and unpaid leave, for a period of twelve (12) weeks (during a 12
5 month period) for the following reasons:

- 6
7 1. Incapacity due to pregnancy, prenatal medical care or child birth;
8 2. Care for the employee's child after birth, or placement for adoption or foster care;
9 3. Care for the employee's spouse, son or daughter, or parent, who has a serious health condition or;
10 4. Serious health condition that makes the employee unable to perform the employee's job;
11 5. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in
12 the National Guard or Reserves in support of a contingency operation may use their twelve (12) week
13 leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending
14 certain military events, arranging for alternative childcare, addressing certain financial and legal
15 arrangements, attending certain counseling sessions, and attending post-deployment reintegration
16 briefings.

17
18 Eligible employees may qualify for a special leave entitlement that permits up to twenty-six (26) weeks of leave to
19 care for a covered service member during a single twelve (12) month period. A covered service member is a
20 current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious
21 injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to
22 perform his or her duties for which the service member is undergoing medical treatment, recuperation, or
23 therapy, or is in outpatient status; or is on the temporary disability retired list.

24
25 Leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken
26 before the end of the first twelve (12) months following the date of birth or placement.

27
28 An expectant mother may take leave upon the birth of the child, or prior to the birth of the child, for necessary
29 medical care and if the employee's medical condition renders her unable to work. Similarly for adoption or foster
30 care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence
31 from work is required for the placement to proceed. Under Tennessee Maternity Leave Act, a female employee
32 may take an additional four (4) weeks of unpaid leave if there has been compliance with the three (3) months
33 notice provision.

34
35 **LEAVE PROVISIONS**

36
37 An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a
38 reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule
39 leave for planned medical treatment so not to unduly disrupt the employer's operations. Leave due to qualifying
40 exigencies may also be taken on an intermittent basis.

1 The employee must submit to the benefits department hours taken for the family or medical leave as well as
2 provide medical certification.

3
4 The school system has the right to recover from the employee all health insurance premiums paid on behalf of
5 the employee during the unpaid leave period if the employee fails to return to work for a minimum of twenty (20)
6 workdays after the leave. Employees who fail to return to work because they are unable to perform the
7 functions of their job as a result of their own serious health condition or the continued necessity of caring for a
8 seriously ill spouse, son, daughter or parent may be exempt from the recapture provision.

9
10 If the employee's family or medical leave ends at the end of the school year, as long as the employee returns to
11 work for the entire next school year they may be exempt from the recapture provision.

12
13 If spouses are employed by the school system and wish to take leave for the care of a new child or a sick parent,
14 their aggregate leave is limited to twelve (12) weeks. For example, if the father takes eight (8) weeks of leave to
15 care for a child, the mother would be entitled to four (4) weeks of leave, for a total of twelve (12) weeks of leave.

16
17 **SUBSTITUTION OF PAID LEAVE FOR UNPAID LEAVE**

18
19 Employees may choose to use accrued paid leave while taking FMLA leave. Employees requesting medical
20 leave must use the balance of sick or vacation leave prior to unpaid leave beginning.

21
22 **NOTIFICATION AND SCHEDULING**

23
24 Employees must provide the school system at least **thirty (30) days advance notice** of the need to take FMLA
25 when the need is foreseeable. When thirty (30) days notice is not possible, the employee must provide notice
26 as soon as practical and generally must comply with the employer's normal call-in procedures.

27
28 Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also
29 be exempt from this thirty (30) day notice.

30
31 Employees must provide sufficient information to the school system to determine if the leave may qualify for
32 FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that
33 the employee is unable to perform job functions; the family member is unable to perform daily activities, the need
34 for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for
35 military family leave. Employees also must inform the school system if the requested leave is for a reason for
36 which FMLA leave was previously taken or certified. Employees also may be required to provide a certification
37 and periodic recertification supporting the need for leave.

38
39
40

CERTIFICATION

The school system reserves the right to verify an employee's request for family/medical leave.

If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the school system requires that the request be supported by certification issued by the health care provider of the eligible employee or family member, as appropriate. If the school system has reason to question the original certification, a second opinion from a different health care provider, chosen by the school system and at its expense, may be required. That health care provider may not be employed by the school system on a regular basis. If the resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

This certification must contain the date on which the serious health condition began, its probable duration and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

Medical certifications given will be treated as confidential and privileged information under the HIPAA guidelines.

An employee will be required to report periodically to the school system the status and the intention of the employee to return to work.

Employees who have taken leave under this policy must furnish the school system with medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

BENEFITS AND PROTECTIONS:

During a period of family or medical leave, an employee will be retained on the school system's group health plan under the same conditions that applied before leave commenced. Any payment for family coverage premiums, or other payroll deductible insurance policies, must be paid by the employee or the benefits will terminate.

An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not for taking leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date of the leave.

With respect to pension and other retirement plans, any period of unpaid family or medical leave shall not be treated as or counted toward a break in-service for purposes for vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for

1 vesting, contributions or participation purpose, an employee on unpaid family or medical leave on that date shall
2 be deemed to have been employed on that date. However, unpaid family or medical leave periods need not be
3 treated as credited service for purposes of benefit accrual, vesting and eligibility to participate .

4
5 **RESTORATION**

6
7 An employee eligible for family and medical leave will be restored to his or her old position or to a position with
8 equivalent pay, benefits, and other terms and conditions of employment.

9
10 Certain highly compensated key employees, who are salaried and among the 10 percent highest paid
11 employees, may be denied restoration under the following conditions:

- 12
13 1. The school system shows that such denial is necessary to prevent substantial and grievous economic
14 injury to its operations;
15 2. The school system notifies the employee that it intends to deny restoration on such basis at the time it
16 determines that such injury would occur; and
17 3. In any case in which the family and medical leave has commenced, the employee elects not to return to
18 work within a reasonable period of time after receiving such notice.

19
20 **THE TWELVE (12) MONTH PERIOD**

21
22 The twelve (12) month period during which an employee is entitled to (12) weeks of family or medical leave is
23 from the first day of the leave forward.

