



Board Policy 437: Family and Medical Leave

Personnel

The Family and Medical Leave Act (FMLA) entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a rolling 12-month period to eligible employees (or up to 26 weeks of military caregiver leave) with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Employee Eligibility

To be eligible for FMLA benefits, an employee must:

- have worked for the District for a total of 12 months, and
- have worked at least 1,250 hours over the twelve (12) months preceding the date the leave would commence.

The 12 months of employment do not have to be consecutive. All periods of absence from work due to or necessitated by service in the uniformed services are counted as hours worked in determining eligibility.

Covered Events Qualifying for FMLA Leave

The District will grant an eligible employee up to a total of 12 workweeks of unpaid, job protected leave during any 12-month period for one or more of the following reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care.
- To care for a spouse, child or parent who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job.

- For any qualifying exigency arising out of the fact that a spouse, child or parent is a military member on covered active duty or on call to covered active-duty status.
- To care for a covered service member with a serious injury or illness.

Amount of Leave

An eligible employee can take up to 12 weeks of FMLA leave during any 12-month period. The District will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the District will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA military caregiver leave during a single 12-month period. For this military caregiver leave, the District will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

Eligible spouses who both work for the District may only take a combined total of 12 weeks of leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition. Both may only take a combined total of 26 weeks of leave to care for a covered injured or ill service member (if each spouse is a parent, spouse, child or next of kin of the service member).

Intermittent Leave or a Reduced Work Schedule

Employees may take FMLA leave in one consecutive block of time, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member) in a 12-month period.

The District may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances when leave for

the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the District and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the District's operations.

Maintenance of Health Benefits

The District will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the District may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the District will require the employee to reimburse the District the amount it paid for the employee's health insurance premium during the leave period.

Designation of FMLA Leave

Within five business days after the employee has submitted the required certification or other documentation, the HR manager will complete and provide the employee with a written response to the employee's request for FMLA leave using the FMLA Designation Notice.

Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty clearance from a health care provider. This requirement will be included in the District's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one

that is virtually identical in terms of pay, benefits and working conditions. The District may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

Notice and Certification

All employees requesting FMLA leave must provide verbal or written notice of the need for leave to the department manager or human resources.

When the need for the leave is foreseeable, the employee must provide the District with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave fewer than 30 days in advance, the employee must provide notice of the need for the leave either the same day the need for leave is discovered or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the District's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

Within five business days after the employee has provided this notice, a member of the human resources team will complete and provide the employee with a Notice of Eligibility and Rights and request a medical certification or other supporting documentation as necessary.

The District will post a notice explaining rights and responsibilities under FMLA. Additionally, the District will include a general notice in written guidance to employees concerning benefits and distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the District acquires knowledge that leave may be for a FMLA purpose, the District will notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the District has enough information to determine that leave is being taken for a FMLA-qualifying reason, the District will notify the employee that the leave is designated and will be counted as FMLA leave.

Certification

The District will require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. The District may require additional medical

opinions (at the District's expense) and periodic recertification of a serious health condition. The District may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. The District may require employees returning from FMLA leave for their own serious health condition to submit a certification that they are able to resume work, just as it would for employees returning from other similar leaves. If reasonable safety concerns exist, the District may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

Other Conditions Relating to FLMA Leave

For purposes of determining the 12-month period during which an employee may be entitled to up to 12 weeks of leave, the District will use a "rolling" 12-month period measured backward from the date an employee uses FMLA leave.

Spouses both employed by the District are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illness is also used). Also, leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement. Illness of a child or spouse allows each employee to receive twelve (12) weeks of leave.

When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the District's operations.

Employees will be required to use available paid leave concurrently to cover the FMLA leave. Once paid leave is exhausted, the employee may use unpaid leave for the remaining FMLA leave.

Sick leave may only be used in the instance of employee illness except where noted in the sick leave policy. Vacation days or personal days must be used if sick leave is not available to cover FMLA related absences.

Medical certification is not required for the first six weeks of maternity leave to be paid as sick leave. Medical certification is required to extend any sick leave for additional recovery time needed for the birth of a child. If the employee requests

additional FMLA time and it is not deemed to be medically necessary, it is considered family leave and paid only by exhausting accrued vacation for non-faculty and personal leave for faculty.

Carryover of accrued vacation time beyond 120 hours is permitted for the purpose of any of these three leaves (maternity, paternity, adoption) to allow for additional paid time in lieu of unpaid time during the leave. Accrued and carryover vacation must be exhausted during the leave, not to provide accrued vacation for future purposes or to extend accrued vacation while on leave. Employees interested in carrying over excess accrued vacation must submit a written request to Human Resources in advance of the end of the fiscal year.

Date of Review: June 11, 2025

Date of Revision: None

Date of Adoption: September 13, 2023

Legal Reference

None

Related Administrative Rules and Regulations

None

Revision History

Formerly Board Policy 436.1; Guideline to Board Policy 436