

**POLICY # 1.19**  
**FAMILY AND MEDICAL LEAVE POLICY**

It is the policy of the Eufaula School District to comply fully with the requirements of the Family and Medical Leave Act of 1993 (the Act) . This Act requires that a covered employer provide up to twelve (12) weeks of unpaid leave to eligible employee. "Eligible employees" are those employees who: (1) have been employed for at least one (1) year by the Eufaula School District; and (2) worked at least 1,250 hours during the previous twelve (12) month period; and (3) have requested leave for a reason covered by the Act.

**A. Reasons for Leave**

All eligible employees who meet the Act's requirements may be granted a total of twelve (12) weeks of unpaid family leave and paid sick, vacation and personal leave combined (during any year as defined below) for the following reasons:

- a. For the birth of a child and to care for such child, or placement for adoption or foster care of a child
- b. To care for a spouse, child or parent with a serious health condition; or
- c. For a serious health condition of the employee that makes the employee unable to perform his or her job functions.

The term serious health condition means one which requires either in-patient care, or continuing treatment by a health care provider. This term is intended to cover conditions or illnesses affecting health to the extent that in-patient care is required, or absences are necessary on a recurring basis or for more than just a few days. A serious health condition does not cover short-term conditions for which treatment and recovery are very brief. Such conditions would normally be covered by the District's sick leave policies.

The term year as used in this Policy shall mean a rolling twelve (12) month period measured backward from the date an employee uses any leave.

**B. Availability of Leave**

In determining the availability of leave the District will consider the leave available to a person whether paid or unpaid) by virtue of existing employment conditions. The intent of the District is to insure that each individual covered by the Act shall have the leave benefits available as a result of the law's requirements. It is not the intent of the District or this policy to provide leave benefits that exceed those authorized by rule, policy, or existing law as supplemented by the Act. Thus, an eligible employee must use any accrued paid vacation leave, personal leave, and sick leave for any part of the twelve (12) week period. It is the policy of the District that all paid non-Act leave will be used first except where a collective bargaining agreement will control the use of paid or unpaid leave for purposes of family and medical leave.

An employee requesting leave for one of the reasons authorized by the Act will be entitled to the leave available by virtue of existing leave policies. In the event the application of these policies results in less leave than is required by the Act an eligible individual will be entitled to such additional leave as is necessary to result in the minimum leave specified in the Act for covered individuals.

Where the employee's spouse is also employed by the District, the total number of work weeks of Act leave to which both spouses are entitled is limited to twelve (12) work weeks during a year if such leave is for the birth of a child or to care for a child or for placement for adoption or foster care of a child.

### **C. Application for Leave**

An employee requesting leave must complete an Application for Family or Medical Leave. The application must state the reason for the leave, the duration of the leave (if known), and the starting and ending dates of the leave. An application can be obtained from the office of the Superintendent.

The application for leave must be submitted at least thirty (30) days before family or medical leave because of an expected birth or placement of a child, or because a planned medical treatment is to begin. If, for reasons beyond the employee's reasonable control, the leave is to begin in less than thirty (30) days, an employee must give notice to his or her immediate supervisor and to the office of the Superintendent as soon as is practicable, ordinarily within one (1) or two (2) school days of when the employee learns of the need for leave.

### **D. Leave Based on a Serious Health Condition**

Medical Certification Statement must accompany an application for leave based on the serious health condition of the employee or the employee's spouse, child or parent. This statement must be completed by the applicable health care provider. It must state the date on which the health condition began, the estimated duration of the condition, and the relevant medical facts related to the condition.

If the employee has a serious health condition the certification must state that the employee cannot perform the functions of his or position. Likewise, when the employee is prepared to return to work he or she must provide certification by his or her health care provider that the employee is able to resume work. The District reserves the right to require the employee to obtain a second medical opinion at the District's expense. If the opinions of the first and second health care provider differ, the District may require a third opinion from a health care provider mutually agreed upon by the District and the employee. The third opinion shall be final and binding.

The District may require subsequent certifications to support FMLA leave but not more often than every thirty (30) days unless the employee: (1) requests an extension of leave; (2) changed circumstances occur regarding the illness or

injury; or (3) the District receives information that casts doubt on the validity of an existing certification.

In the event the employee is applying for leave to care for a spouse, child or parent, the certification must state that fact along with an estimate of the amount of time the employee will be needed.

#### **E. Intermittent Leave or Leave on a Reduced Leave Schedule**

An employee may request to use available leave intermittently or on a reduced leave schedule.

Where leave is requested in connection with a serious health condition of the employee or his or her immediate family member, the request for leave must be supported with a certification from the health care provider that such leave is medically necessary and stating the expected duration and schedule of such leave. There must be a medical need for the leave and evidence that the medical need can best be accommodated through an intermittent or reduced leave schedule. Any eligible employee seeking leave on an intermittent or reduced leave basis must obtain and complete a request for leave and must submit the medical certification required.

Intermittent or reduced leave may also be taken in connection with the birth or because of the placement for adoption or foster care of a child. However, intermittent leave or leave on a reduced leave schedule for this purpose may only be taken with the approval of the District. In either instance, whether because such leave is medically necessary or in connection with the birth or placement of a child, the employee must try to schedule the leave so as not to unduly disrupt the District's operations. In the event the employee takes intermittent leave or reduced leave the District reserves the right to place the employee in an alternative position which better accommodates intermittent or reduced leave.

When an instructional employee requests intermittent or reduced leave for planned medical treatment for more than twenty percent (20%) of the total number of working days in the period during which the leave would be used, the District may require the employee to elect either to (1) take leave for a particular duration or time which is not greater than the duration of the planned treatment, or (2) be transferred to an alternative position. If the instructional employee requesting intermittent leave or leave on a reduced leave schedule does not give proper notice as required, the District may deny the taking of leave until thirty (30) days after notice was provided, or may require the employee to take leave for either a particular duration or accept an alternative position.

#### **F. For the purposes of this Policy**

The work term means the first term or Fall semester term of each academic year and the second term or Spring semester term of each academic year.

### **G. The Effect of Leave on Benefits**

During a period of family or medical leave, an employee will be retained on the District's medical insurance plan under the same conditions that applied before leave began. In order to continue medical insurance coverage the employee must continue to make any contributions that he or she made to the plan before leave. Failure of the employee to pay his or her share of the medical insurance premium may result in a loss of coverage. The employee is required to pay all of the premiums for any other type of insurance coverage which may exist.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the District for payment of health insurance premiums during the family or medical leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or to circumstances beyond the employee's control.

The employee may not accrue any seniority or employment benefits that would have accrued if not for taking the leave. However, the employee who takes family or medical leave will not lose any seniority or employment benefits that accrued before the date leave began.

### **H. Reinstatement to Former Position**

An employee generally is entitled to be restored to an equivalent position and to equivalent conditions of employment. This may not be applicable to employees who are designated as highly compensated employees . The District cannot guarantee that a key employee will be returned to his or her original job. A determination as to whether a position is an equivalent position will be made by the District. A highly compensated employee is one who is salaried, and is among the highest paid ten percent (10%)" of the employees employed within seventy-five (75) miles of the employee's work site. An employee who qualifies as a highly compensated employee may be denied restoration to employment if necessary to prevent substantial and grievous economic injury to the operations of the District.

An employee who is ready to return from leave must complete a *Notice of Intention to Return from Family or Medical Leave* before he or she can be returned to work. An employee may return to work before the expiration of a family or medical leave of absence. In this event, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's planned return

### **I. Failure to Return From Leave**

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. Any termination, as a result of this provision, is subject to the same rights as a termination for cause. An employee who requests

an extension of family leave or medical leave due to the continuance, recurrence or onset of her or his own serious health condition, or the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the employee's immediate supervisor with a copy to the office of the Superintendent. This written request should be made as soon as the employee realizes that she or he will not be able to return at the expiration of the leave period.

#### **J. Interpretation of Act**

The District intends to remain faithful to the requirements of the Act. Questions regarding the interpretation, administration, and application of the Act to eligible employees shall be resolved by reliance on the FMLA and its interpretive regulations. Where relevant, the District will also consider its policies, rules, practices, and negotiated agreements.

#### **K. Forms**

Forms related to this policy, including the application for leave and medical certification statements, are available from the Office of the Superintendent.