

## **FAMILY AND MEDICAL LEAVE (FMLA)**

The Family and Medical Leave Act of 1993 provides up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for the Newhall School District for at least one year, and for 1,250 hours over the previous 12 months (except full-time teachers). FMLA entitles you to paid benefits and rights back to your position.

### **Reason for Taking Leave**

Unpaid leave may be granted for any of the following:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition, or
- For a serious health condition that makes the employee unable to perform his or her job, except for leave taken for disability due to pregnancy, childbirth or related medical condition.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or, a child of a person standing in loco parentis as long as the child is under 18 years of age, or an adult dependent child. "Parent" means biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. A "serious health condition" must meet incapacity of more than three days, inpatient care, chronic or long-term conditions requiring supervised medical treatment and/or multiple treatments for other serious health problems, or incapacity due to pregnancy or for prenatal care.

### **Terms of Leave**

FMLA leave shall not exceed 12 workweeks during any 12-month period. The 12-month period shall begin with the date that any employee's first FMLA leave begins. FMLA leave shall run concurrently with the state Family Care and Medical Leave Act except for leave taken for pregnancy, disability, childbirth or related medical conditions which extends beyond six weeks. If your pregnancy disability extends up to four months, you are entitled to 12 weeks of California Family Rights Act (CFRA) leave without benefits after your disability ends. Leave for the birth or placement of a child must be initiated within one year of the birth or placement of the child. Such leave shall not be taken intermittently or on a reduced leave schedule. If both parents of a child work for the District, FMLA leave for the birth or placement of the child shall be limited to a total of 12 weeks.

During FMLA leave, the employee must use all accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the District. FMLA will run concurrently when receiving differential or half pay. Accrued sick leave shall be used when the purpose of the leave is one for which sick leave can be taken pursuant to bargaining unit agreements and/or Board policy. The employee will be required to provide advanced leave notice and medical certification. Leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable.
- If leave is for planned medical treatment or supervision, the employee shall make a reasonable effort to schedule leave to avoid disruption of the District operations.

Requests for FMLA leave must be accompanied by a certification from the health care provider of the person requiring care to include:

- The date on which the serious health condition began
- The probable duration of the condition
- If FMLA leave is due to an employee's serious health condition, the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his or her job
- FMLA leave for the care of a child, spouse or parent shall also include:
  1. Estimate of the amount of time the health care provider believes the employee needs to care for the child, parent or spouse
  2. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse

If additional leave is needed when time estimated expires, the employee must provide recertification to include the above items.

### **Intermittent / Reduced Work Schedule Leave**

FMLA leave may be taken intermittently or on a reduced work schedule when medically necessary and in such a case, the employee may be required:

- To take the leave for periods of a particular duration, not to exceed the duration of the planned medical treatment
- If the person is in an instructional capacity and requests leave for more than 20% of the total number of working days during the period of medical treatment, the District may require the employee to choose one of the two options above.

## **Maintenance of Benefits**

### Paid benefits

- During FMLA leave, the employee shall continue to be entitled to participate in the District's medical, dental and vision plans with the same District contribution that was in effect prior to the leave.

### Recovery of benefits

- The District will recover health premiums paid if the employee fails to return from FMLA after the leave period has expired, provided this is for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to family care and medical leave, or other circumstances beyond the employee's control.

### Maintenance of Status

The employee shall retain his or her employee status with the District during the leave period. The leave shall not constitute a break in service for purposes of longevity or seniority. For purposes of layoff, recall, promotion, job assignment and seniority related benefits such as vacation, the employee returning from family care leave shall return with no less seniority than he or she had when leave started.

## **Reinstatement**

The District will reinstate the employee in the same or comparable position when FMLA leave ends. The District may refuse to reinstate an employee returning from leave to the same or comparable position if the following apply:

- The employee is a salaried "key employee" who is among the highest paid 10 percent of the District's employees.
- The refusal is necessary to prevent substantial and grievous economic injury to District operations.
- The District informs the employee of its intent to refuse reinstatement at the time when it determines that the refusal is necessary and the employee fails to return to service within two weeks after being informed.

Employment in the same or comparable position is defined as employment in a position with the same or similar duties and pay, which can be performed at the same, or a similar geographic location. A determination related to restoration in an equivalent position shall be made on the basis of Board policies and bargaining unit agreements.

An employee who takes leave has no greater right to reinstatement than if he or she had been continuously employed. If the District reduced its work force during the leave period and the employee is laid off for legitimate reasons at that time, he or she is entitled to reinstatement.

The District shall not refuse to hire and shall not discharge, fine, suspend, expel or discriminate against any employee because he or she exercises the right to family care leave or because he or she gives information or testimony related to his or her or another person's family care leave in an inquiry related to family leave rights.