

No. 4540
SECTION: PERSONNEL
TITLE: FAMILY & MEDICAL LEAVE

ADOPTED: 11/26/96
READOPTED: 1/29/14;11/15/16;8/20/19;
5/18/21
REVISED: 5/15/06;6/21/10

OXFORD AREA SCHOOL DISTRICT

It shall be the policy of the Oxford Area School District to permit family and medical leaves for employees in accordance with the regulations and standards as promulgated by the U. S. Department of Labor in the Family and Medical Leave Act of 1993.

The Superintendent of Schools shall develop procedures and guidelines to implement this policy to ensure compliance with the Family and Medical Leave Act. These procedures and guidelines shall identify eligible employees, the reasons for approved leaves, required notice and medical certifications, and conditions of employment and benefits protected under the Act.

OXFORD AREA SCHOOL DISTRICT
NO. 4540 FAMILY & MEDICAL LEAVE

ADMINISTRATIVE PROCEDURES

FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act provides certain employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity for men and women.

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

- for the birth and care of a newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition;
- for qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.
- An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: short-notice deployment, military events and activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities and additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.
- The Oxford Area School District also must grant *military caregiver leave* to an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of 26 workweeks or unpaid leave during a "single 12-month period" to care for the service member.

FMLA applies to all public agencies all public and private elementary and secondary schools, and companies with 50 or more employees.

The twelve month period of eligibility for each employee shall be designated as the school calendar year, July 1 to June 30. An eligible employee may also take intermittent Family and Medical leave for the serious health condition of him/herself, spouse, parent or child.

The following guidelines shall be used to comply with the requirements of the Family Medical Leave Act of 1993.

A. ELIGIBILITY

To be eligible for FMLA benefits, an employee must

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

Whether an employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours of work.

While the 12 months of employment need not be consecutive, employment periods prior to break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA), or a written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service.

B. LEAVE FOR BIRTH, ADOPTION OR PLACEMENT IN FOSTER CARE OF A CHILD

Leave for birth, adoption or placement in foster care of a child may be requested under the following conditions:

1. The request for leave must be submitted at least thirty (30) days prior to the date the leave is to begin under normal circumstances, or as soon as practical in unusual circumstances.
2. The leave may begin before the birth or placement of a child if deemed medically necessary, but may not be taken more than twelve months after.
3. A husband and wife employed by the Oxford Area School District are limited to a combined total of twelve weeks leave for the birth, adoption or placement in foster care of a child.
4. Employees may not take intermittent leave (leave taken in separate periods of time rather than continuously) for purposes of birth, adoption or placement in foster care of a child.

C. LEAVE FOR A SERIOUS HEALTH CONDITION

Leave for a serious health condition of the employee, spouse, child or parent may be requested under the following conditions.

1. Family and medical leaves may be requested for the care of a spouse, child, or parent with a serious medical condition or because a serious health condition of the employee makes the employee unable to perform the functions of his or her job.

2. A serious health condition is an illness, injury, or physical or mental condition that involves:
 - a. inpatient care in a hospital, hospice, or residential facility; or
 - b. continuing treatment by a health care provider.
3. Employees must provide medical certification supporting the need for leave due to a serious health condition of the employee or an immediate family member.
 - c. An employee who takes Family Medical Leave Act leave because of the employee's own serious health condition must provide certification that he or she is able to resume work provided the employee has been absent from work as a result of the serious health condition for more than three (3) days.

D. GENERAL GUIDELINES FOR LEAVE FOR BIRTH, ADOPTION OR PLACEMENT IN FOSTER CARE OF A CHILD OR LEAVE FOR A SERIOUS HEALTH CONDITION

The following general guidelines apply to leaves requested for the birth, adoption, or placement in foster care of a child and/or leaves for serious health conditions.

1. Employees must substitute accrued paid leave days for unpaid Family and Medical Leave Act leave in accordance with the following guidelines.
 - a. Accumulated vacation days, personal leave days and sick days must run concurrently along with unpaid Family and Medical Leave Act leave for an employee's serious health condition.
 - b. Accumulated vacation days, personal days and family illness leave days must run concurrently along with Family and Medical Leave Act leave for the serious health condition of a spouse, child or parent.
 - c. Accumulated paid vacation days, personal days, sick days and family illness leave days must run concurrently along with Family and Medical Leave Act leave for the birth, adoption, or placement in foster care of a child.
2. An employee contemplating medical leave must notify his/her supervisor of the anticipated disability as soon as she/he is aware of the condition and a date is projected for the anticipated disability.
3. An employee on medical leave must present to his/her supervisor a written statement by his/her physician of the employee's physical capacity to perform duties assigned upon return.
4. Employees will be required to provide timely certification from his/her health care provider as to the date the condition commenced, the duration, the necessity for the employee's leave and the employee's inability to perform his/her job functions.

E. BENEFITS DURING LEAVE

Family and Medical Leave is unpaid leave. However, health coverage will continue to be provided to an employee on leave whenever group health coverage was provided to an employee prior to the request for the leave.

The following guidelines pertain to the provision of benefits while the employee is on an approved leave under the provision of the Family and Medical Leave Act of 1993.

1. When on an unpaid family and medical leave the employee must pay any employee's share of the group health plan normally paid by the employee. Premiums will be paid to the school district according to current practices regarding the payment for such benefits while on unpaid leave.
2. In the event that an employee on family and medical leave fails to make payment of the employee's share within 30 days of the date on which it is due, the district's obligation to maintain coverage will cease.
3. Unpaid leave extended beyond the twelve weeks Family and Medical Leave Act leave would not include health coverage at the employer's expense.
4. If the employee fails to return to work at the conclusion of his or her Family and Medical Leave Act leave, the school district will recover from the employee payment for health benefits provided during the unpaid portion of the leave.

F. REINSTATEMENT AFTER LEAVE

In accordance with the Act, generally, at the conclusion of the Family Medical Leave Act leave, employees will be restored to their original position with equivalent pay, benefits and other employment terms as if they had not taken such leave. Failure to return at the end of the Family and Medical Leave could result in the position being declared vacant.

G. COMPLIANCE WITH THE FAMILY AND MEDICAL LEAVE ACT OF 1993

These administrative procedures are intended to comply with the requirements of the Family and Medical Leave Act of 1993, particularly in those areas where the Act provided some discretion to the employer. For all provisions of the Act not included in these administrative procedures the Family and Medical Leave Act shall prevail and be applied accordingly.

H. APPLICATION PROCESS

1. An employee desiring to take a Family and Medical Leave of Absence (FMLA) must complete the District Request for Leave of Absence form and present to building principal for approval. Employees taking a FMLA will have time taken charged against his/her total Family and Medical Leave allotment.
2. In an emergency situation, building principal shall notify Human Resources department about the need for an employee to take a leave of absence. An emergency situation is when the employee needs to leave immediately or has already left work due to serious health condition of employee, spouse, parent or child, and is for absences that are anticipated for a period of more than three days. Leaves for child birth, adoption or foster care placement are expected to be requested in advance whenever possible. Human Resources will forward District Request for Leave of Absence form to employee in the event the employee has left work for an emergency situation.

3. Building principal will forward application to Human Resources for processing.

Human Resources department will verify eligibility of employee and notify employee of medical certification needed to document leave. An eligible employee must provide a complete statement from their physician within 15 days stating the need for the requested leave of absence. The Board of School Directors reserves the right to require at its own expense a second opinion report by a physician of its choice to determine the validity of the request for a FMLA. The board will follow the procedures as per the Family and Medical Leave Act of 1993 for documentation.

Human Resources will send official letter of approval or denial of request for Family and Medical Leave as per the Family and Medical Leave Act of 1993.

Human Resources department will schedule a meeting with employee to discuss benefit and pay options.

Building principal shall complete and submit a Request for Personnel to replace the employee for period of leave of absence.

I. MILITARY FAMILY LEAVE ENTITLEMENTS

Military Caregiver Leave: The Oxford Area School District will grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered service member.)

Qualifying Exigency Leave: The Oxford Area School District will grant an eligible employee up to a total of 12 workweeks of unpaid leave from July 1 to June 30 for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issue arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;

- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and employer agree is a qualifying exigency.

Spouses employed by the same employer are limited to a combined total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered service member with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FMLA leave may be taken intermittently whenever medically necessary to care for a covered service member with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. 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 employer's operation.

Under certain conditions, employees or employers may choose to "substitute" (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

J. NOTICE REQUIREMENTS

1. Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered service member.
2. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable - generally, either the same or next business day.

3. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements.

An employee does not need to specifically assert his or her rights under the FMLA, or even mention the FMLA, when providing notice. The employee must provide "sufficient information" to make the employer aware of the need for FMLA leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

- that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- that the leave is for a qualifying family member who is a covered service member with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

K. CERTIFICATION REQUIREMENTS

The Oxford Area School District will require an employee's request for military family leave be supported by an appropriate certification. The Oxford Area School District requires the following:

1. Leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
2. Leave to care for a covered service member with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

Second and third opinions and recertification are not permitted for certification of a covered service member's serious injury or illness or of a qualifying exigency. The Oxford Area School District will authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. The direct supervisor of the employee is not permitted to do so.