

POLICY TITLE: Family and Medical Leave Policy

POLICY PURPOSE

The Family and Medical Leave Act of 1993 requires employers of 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. The policy of the Canyon-Owyhee School Service Agency (COSSA) is to provide family and medical leave for eligible employees under the terms and conditions set for below.

ELIGIBLE EMPLOYEES

- A. Have been employed by COSSA for at least 12 months, which need not be consecutive months; and
- B. Have been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.
- C. Leave may be denied to administrators if necessary to avoid substantial and grievous economic injury to COSSA.

REASONS FOR TAKING LEAVE

- A. Birth of a child and to care for the newborn child; for placement with the employee of a child for adoption or foster care.
- B. For the care of the employee's spouse, child, or parent who has a serious health condition;
 - 1. Spouse means a husband or wife as defined or recognized under Idaho law for purposes of marriage; common law marriages are not recognized in Idaho.
 - 2. Parent means a biological parent or an individual who stood *in loco parentis* to an employee when the employee was a child. This term does not include "parents-in-law".
 - 3. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of mental or physical disability.

C. For a serious health condition that makes the employee unable to perform his or her job. Serious health condition shall mean an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;

2. Continuing outpatient treatment of two or more days and absence from school, work, or other daily activities for three or more days; or

3. Continuing treatment by (or under supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days.

D. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty status, or has been notified of an impending call to active duty status, in the Armed Forces.

JOB AND BENEFITS PROTECTION

A. For the duration of leave, COSSA will continue to pay the employee's cash benefits under the COSSA Cafeteria plan under the conditions benefits would have been provided if the employee had been working. The employee is responsible for paying any health insurance premiums covering family members, and if not paid within thirty (30) days of being due, such coverage will be terminated.

B. Upon return from leave, employees will be restored to their original positions or equivalent positions with equivalent pay, benefits, and other employment terms. COSSA may deny restoration to administrators if necessary to avoid substantial and grievous economic injury to COSSA.

C. Employee may be required to document his/her fitness to return to work.

D. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six weeks of leave in a single twelve month period to care for the service member.

REQUIREMENTS FOR LEAVE

A. Employee may be required to furnish to COSSA certification by the health care provider of the employee or employee's ill family member that leave is necessary, and such certification shall be furnished before leave can begin.

B. Employee must provide COSSA at least thirty (30) days' advance notice before leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If thirty (30) days' notice is not practicable, as in a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. In the absence of qualifying conditions, leave may be denied if thirty (30) days' notice is not given.

C. Paid sick leave will be counted against Family and Medical Leave as defined by this policy.

TERMS OF LEAVE

A. Leave need not be consecutive days, but may consist of parts of weeks or days.

B. For instructors, support (ancillary) personnel and special education assistants, if leave is more than 20 percent of the total number of working days in the term, COSSA may require that the leave be taken in a block, or that the individual requesting leave be transferred to an available, equivalent alternative position.

C. For instructors, support (ancillary) personnel, and special education assistants, if leave is taken at the end of the term, COSA may require the employee to continue the leave through the end of the term.

D. Prior to commencement of leave the employee will be given a notice setting forth the provisions of the COSSA Family Medical Leave Policy.

FORMS

COSSA uses the Department of Labor Wage and Hour Division forms and processes pertaining to Family and Medical Leave.

FAMILY AND MEDICAL LEAVE PROCEDURE

Who Is Eligible: Employees are eligible if they have worked for the District for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 District employees within a 75 mile radius.

Benefit: Under certain conditions, eligible employees, if qualified, may be entitled to up to 12 weeks leave with continuing participation in the District's group insurance plan.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12 month period to care for the service members.

Reasons for Taking Leave: Unpaid leave will be granted to eligible employees for any of the following reasons:

1. To care for the employee's child after birth, or placement of a child for adoption or foster care with the employee; or
2. To care for the employee's spouse, child, or parent (not including parents in-law) who has a serious health condition; or
3. For a serious health condition that makes the employee unable to perform the employee's job; or
4. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty status, or has been notified of an impending call to active duty status, in support of a contingency operation.

Substitution of Paid Leave: Paid leave will be substituted for unpaid leave under the following circumstances:

1. Accumulated sick or personal leave will be utilized concurrently with any FMLA leave that is taken for a serious health reason as described in 2 or 3 above;
2. Accumulated vacation or personal leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in 1 above;
3. Accumulated sick leave will be utilized concurrently with FMLA leave whenever the FMLA leave is taken for reasons which qualify for sick leave benefits pursuant to District policy; and
4. Whenever appropriate, workers' compensation absences shall be designated FMLA leave.

When Spouses are District Employees: If spouses are employed by the District, they each are entitled to a total of 12 weeks of leave per year. However, where the reason for the leave is for birth of a child, or because of adoption or foster care, or to care for a sick parent, such leave may be limited to an aggregate of 12 weeks, between the married employees.

Advance Notice: Employees must provide 30 days advance notice when the leave is foreseeable. In other situations an employee must give notice as soon as practicable. Leave may be allowed in emergency situations when no advance warning is possible. Inexcusable delays in notifying the District may result in the delay or denial of leave.

Requests: A sick leave request form is to be completed whenever an employee is absent from work for more than three days or when an employee has need to be absent from work for continuing treatment by or under the supervision of a health care provider.

Medical Certification: The District will require medical certification to support a request for leave or any other absence because of a serious health condition (at employee expense), and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work statement.

Intermittent/Reduced Leave: FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with the approval of the District. Where FMLA leave is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. An employee may be reassigned to accommodate intermittent or reduced leave. When an employee takes intermittent leave or leave on a reduced leave schedule, increments will be limited to the shortest period of time that the District's payroll system uses to account for absences or use of leave.

Insurance: An employee out on FMLA leave is entitled to continued participation in the appropriate group health plan, but it is incumbent upon the employee to continue paying the portion of the premiums the employee usually pays throughout the leave period. An employee's eligibility to maintain health insurance coverage will lapse if the premium payment is more than 30 days late. The District will mail notice of delinquency at least 15 days before coverage will cease.

Return: Upon return from FMLA leave, reasonable effort shall be made to place the employee in the original or equivalent position with equivalent pay, benefits, and other employment terms.

Record Keeping: Employees, supervisors, and building administrators will forward requests, forms, and other material to payroll to facilitate proper record keeping.

Summer Vacation: The period during the summer vacation or other scheduled breaks, such as Christmas, an employee would not have been required to work will not count against that employee's FMLA leave entitlement.

Special Rules for Instructional Employees

Leave More Than Five Weeks Before End of Term: If an instructional employee begins FMLA leave more than five weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term if:

1. The leave is at least three weeks; and
2. The employee's return would take place during the last three-week period of the semester term.

Leave Less Than Five Weeks Before End of Term: If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than five weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term if:

1. The leave is longer than two weeks; and
2. The employee's return would take place during the last two-week period of the semester term.

Leave Less Than Three Weeks Before End of Term: If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than three weeks before the end of term, the District may require the employee to continue taking leave until the end of the academic term if the leave is longer than five days.

Intermittent or Reduced Leave: Under certain conditions, an instructional employee needing intermittent or reduced leave for more than 20% of the total working days over the leave period may be required by the District to:

1. Take leave for a period(s) of particular duration not to exceed the duration of treatment; or
 2. Transfer to an alternate but equivalent position
- Employee Notification of Policy

A general notice from the Department of Labor explaining the FMLA's provisions and complaint procedures will be posted prominently where it can be readily seen by employees and applicants and shall either be distributed to each new employee upon hiring or will be included in employee handbooks or other written guidance concerning benefits or leave rights. No notification of rights under the FMLA or related regulations should be construed to alter any applicable at-will employment relationship between the District and an employee.

LEGAL REFERENCES:

29 CFR 825, 29 USC 2601, et seq. Family Medical Leave Act –
National Defense Authorization Act for FY 2008 (NDAA), Pub. L. 110-181
29 USC 2616, 2617
29 CFR 500, 825.300(d)(e)

ADOPTED:

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