





# Richland School District Two

## Request for Family and Medical Leave (FMLA)

### Family and Medical Leave Act of 1993

#### Military Leave Form

\_\_\_\_\_ Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.

\_\_\_\_\_ I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

3. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

---

---

---

4. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs.

Available written documentation supporting this request for leave is attached.

\_\_\_\_\_ Yes      \_\_\_\_\_ No      \_\_\_\_\_ None Available

5. Approximate date exigency commenced: \_\_\_\_\_

Probable duration of exigency: \_\_\_\_\_

6. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If so, estimate the beginning and ending dates for the period of absence: \_\_\_\_\_

---

7. Will you need to be absent from work periodically to address this qualifying exigency?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

---

---

---

8. If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service



# Richland School District Two

## Request for Family and Medical Leave (FMLA)

### Family and Medical Leave Act of 1993 Military Leave Form

organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or e-mail address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Nature of meeting: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART B – (SERIOUS INJURY OR ILLNESS OF COVERED SERVICEMEMBER)**

**EMPLOYEE and/or COVERED SERVICEMEMBER SECTION: For completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee is Requesting Leave.**

1. Is the Covered Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

If yes, please provide the covered Servicemember’s military branch: \_\_\_\_\_

2. Is the covered Servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

3. Describe the Care to Be Provided to the Covered Servicemember and an Estimate of the Leave Needed to Provide the Care:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



# Richland School District Two

## Request for Family and Medical Leave (FMLA)

### Family and Medical Leave Act of 1993

#### Military Leave Form

**HEALTH CARE PROVIDER SECTION:** For Completion by a UNITED STATES DEPARTMENT OF DEFENSE (“DOD”) HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed on Page 1 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the 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. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the Servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered Servicemember’s serious injury or illness includes written documentation confirming that the covered Servicemember’s injury or illness was incurred in the line of duty on active duty and that the covered Servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

Health Care Provider’s Name and Business Address: \_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider:

Telephone: (        ) \_\_\_\_\_ Fax: (        ) \_\_\_\_\_

**MEDICAL STATUS**

1. Covered Servicemember’s medical condition is classified as (Check one of the appropriate classifications.):

\_\_\_\_\_ **(VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers).

\_\_\_\_\_ **(SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers).

\_\_\_\_\_ **OTHER Ill/Injured** – A serious injury or illness that may render the Servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

\_\_\_\_\_ **NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information).



# Richland School District Two

## Request for Family and Medical Leave (FMLA)

### Family and Medical Leave Act of 1993 Military Leave Form

2. Was the condition for which the Covered Service member is being treated incurred in the line of duty on active duty in the armed forces?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

3. Approximate date condition commenced: \_\_\_\_\_

4. Probable duration of condition and/or need for care: \_\_\_\_\_

5. Is the covered Servicemember undergoing medical treatment, recuperation, or therapy?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, please describe medical treatment, recuperation or therapy: \_\_\_\_\_

\_\_\_\_\_

6. Will the covered Servicemember need care for a single continuous period of time, including any time for treatment and recovery?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, estimate the beginning and ending dates for this period of time: \_\_\_\_\_

\_\_\_\_\_

7. Will the covered Servicemember require periodic follow-up treatment appointments?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, estimate the treatment schedule: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Signature of Health Care Provider**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Employee**

\_\_\_\_\_  
**Date**

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

**DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR:  
RETURN TO THE PATIENT OR EMPLOYER VIA FAX 803-782-6723.  
RICHLAND TWO BENEFITS REPRESENTATIVE 803-738-3267**

*Administrative Rule*

**EMPLOYEE PERSONAL LEAVES AND ABSENCES**

*Code GCC-R/GDC-R Issued February 24, 2009*

---

**Payroll procedures concerning absences**

Regular pay will be authorized for any sick leave used in accordance with policy GCC/GDC. Full salary will be deducted for any sick days used in excess of the employee's accumulated leave.

**Payroll procedure concerning absences due to emergency and personal absences**

A maximum of three days sick leave may be used annually as personal leave or for emergencies when notification is received in advance by the principal or supervisor. This is increased to six days for employees with five full years of service in the District. Note: All days used for emergency/personal leave are deducted from sick leave days. Some examples of emergencies to be considered for such leave are the following:

- death, not in the immediate family, but one calling for an absence;
- business which can only be transacted during school hours;
- weddings, graduations or honors in the immediate family; and
- moving, if absence from school is necessary.

**Procedures concerning reporting absences**

All absences of staff members, whether approved or not approved by the principal or other administrator, will be recorded in e-Leave, the district's electronic application for attendance administration.

When leave has been granted for bereavement in the family, the employee relationship to the deceased will be recorded in e-Leave.

Except in rare instances, approval for personal leave will not be granted during in-service days, the first five or last five days of student attendance, and the day before or day after the Thanksgiving, winter holidays, or spring break.

**Family and Medical Leave Act (FMLA)**

Pursuant to Board policy GCC/GDC, Richland School District Two adopts the following guidelines to provide a fair and systematic procedure by which eligible employees may take unpaid leaves of absence for family and medical reasons.

## **PAGE 2 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

### Eligibility requirements

To qualify for leave under this policy, an employee must have been employed by the school District for at least 12 months as of the date on which the requested leave will commence. In addition, the employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

### Leave entitlement

An eligible employee is entitled to a total of 12 workweeks of unpaid leave during any fiscal year (July 1 through June 30). FMLA leave is available for the following reasons:

- for the birth of a son or daughter of the employee
- for the placement of a child with the employee for adoption or foster care
- to care for a spouse, son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition
- because of a serious health condition of the employee that renders the employee unable to perform the essential functions of the position

### Military Leave Entitlements

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. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practical - generally, on the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. The District may require that an employee's request for military family leave be supported by an appropriate certification.

**Military Caregiver Leave:** 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 is entitled to 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 District for other types of FMLA leave. An eligible employee is limited to a combined total of 26 work weeks 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:** An eligible employee is entitled to up to a total of 12 work weeks

## **PAGE 3 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

of unpaid leave during the normal 12-month period established by the District for FMLA leave 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. Qualifying exigency leave is available to a family member (as defined above) 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:

- Issues 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 the District agree is a qualifying exigency.

An eligible employee who desires to take leave under this policy will request such leave from his/her immediate supervisor, who will then notify the Superintendent or his/her designee of the request. Requests will be responded to in a timely manner. An employee needing FMLA leave must follow the District's usual and customary call-in procedures for reporting an absence, absent unusual circumstances.

The entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after the date of such birth or placement.



## PAGE 4 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES

"Foster care" is 24-hour care for children in substitution for, and away from, their parents or guardian, by or with the agreement of the state or pursuant to a judicial determination.

"Son or daughter" means a biological, adopted, or foster child, stepchild, legal ward or 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 a mental or physical disability. Persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, persons who had such responsibility for the employee when the employee was a child.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either:

- inpatient care, i.e., an overnight stay, in a hospital, hospice, or residential medical-care facility, including any period of incapacity, i.e., inability to work, attend school, or perform other regular daily activities or subsequent treatment in connection with such inpatient care; or
- continuing treatment by a healthcare provider as defined below

"Continuing treatment by a healthcare provider" means any of the following:

- A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:
  - treatment two or more times by or under the supervision of a health care provider, which includes in-person visits, the first within 7 days and both within 30 days of the first day of incapacity; or
  - one treatment by a health care provider, which includes an in-person visit within 7 days of the first day of incapacity with a continuing regimen of treatment (e.g., prescription medication, physical therapy, etc.); **or**
- Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**
- Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
- Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

A "healthcare provider" includes, but is not limited to, the following:

- a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;

## **PAGE 5 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

- a podiatrist, dentist, clinical psychologist, optometrist or chiropractor (limited to treatment of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist), authorized to practice in the state and performing within the scope of his/her practice as defined under state law;
- a nurse practitioner or nurse midwife who is authorized to practice under state law and who is performing within the scope of his/her practice as defined under state law

### **Intermittent or reduced schedule leave**

"Intermittent leave" is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time and may include leave periods from one hour or more to several weeks.

A "reduced schedule leave" is a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday.

Leave for the birth or placement of a child will not be taken intermittently or on a reduced schedule without the written consent of the Superintendent or his/her designee, who will consult with the employee's immediate supervisor before granting such consent.

Leave to care for a seriously ill spouse, son, daughter or parent or for the employee's own serious health condition, may be taken intermittently or on a reduced schedule only when medically necessary and as approved by the District.

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the Superintendent or his/her designee may require such employee to transfer temporarily to an available alternative position for which the employee is qualified that (1) has equivalent pay and benefits; and (2) better accommodates recurring periods of leave, or family and medical leave (for instructional employees, see the section entitled "Rules applicable to periods near the conclusion of an academic term for employees employed principally in an instructional capacity" below), if such position is available. 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.

### **Substitution of paid leave**

Under certain conditions, employees or the District may choose to "substitute" (run concurrently) accrued paid leave (such as sick, annual, 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 District's normal leave policy.

An eligible employee may elect, or the Superintendent or his/her designee may require the employee to substitute any of the available accrued paid vacation leave, personal leave, annual leave, or sick leave of the employee for leave taken for the following:

- the birth or placement of a child; or

## **PAGE 6 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

- to care for a seriously ill spouse, child or parent; or
- for the employee's own serious health condition.

Paid vacation, annual or personal leave may be substituted, at either the employee's or the District's option, for any qualified unpaid Family and Medical (FMLA) leave without limitation. Paid sick leave may be substituted for unpaid leave under this policy only if the circumstances necessitating the leave entitle the employee to paid leave under the applicable policy.

### **Foreseeable leave/notice required**

When the necessity for leave for the birth or placement of a child is foreseeable based on an expected birth or placement, the employee must provide at least 30 days notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave. The failure to provide such notice with no reasonable excuse for the delay may result in the denial of a request for leave until 30 days after the employee provides notice.

If the date of the birth or placement requires leave to begin in less than 30 days, the employee must provide as much notice as is practicable.

When leave to care for a seriously ill spouse, child or parent or for an employee's own serious health condition is foreseeable based on planned medical treatment, the employee must do the following:

- make a reasonable effort to schedule the treatment so as not to disrupt unduly the school District's operations, subject to the approval of the healthcare provider, and
- provide at least 30 days notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave, except that if the date of treatment requires leave to begin in less than 30 days, the employee must provide as much notice as practicable.

### **Spouses employed by the District**

Spouses employed by the District are limited in the amount of Family and Medical (FMLA) 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 service member with a serious injury or illness is used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

### **Certification**

A request for leave to care for a seriously ill spouse, child or parent or for the employee's own serious health condition must be supported by a certification issued by the healthcare provider of the employee or family member. The District has pre-approved forms available which an employee may use for this purpose.

The employee should furnish certification at the time the employee gives notice of the need for

## **PAGE 7 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

leave, or within five (5) business days thereafter, or, in the case of unforeseen leave, within five (5) business days after the leave commences. The District may request certification at some later date if the District later has reason to question the appropriateness of the leave or its duration. In such a case, the employee must provide the requested certification to the District within fifteen (15) calendar days after the District's request, unless it is not practicable under the particular circumstances to do so.

The certification must contain the following information:

- the date on which the serious health condition commenced;
- the probable duration of the condition;
- the appropriate medical facts regarding the condition;
- for leave taken to care for a seriously ill spouse, child or parent, a statement that the employee is needed to care for the spouse, child or parent and an estimate of the amount of time the employee will be needed for that purpose;
- for leave taken due to an employee's serious health condition, a statement that the employee is unable to perform the essential functions of the position;
- for intermittent or reduced schedule leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;
- for intermittent or reduced schedule leave for an employee's serious health condition, the statement of the medical necessity for the intermittent or reduced schedule leave and the expected duration of such leave; or
- for intermittent or reduced schedule leave to care for a seriously ill spouse, child or parent, a statement that the employee's intermittent or reduced schedule is necessary for the care of the spouse, child or parent, or will assist in their recovery, and the expected duration and schedule of the intermittent or reduced schedule leave.

The District may contact the health care provider for purposes of clarification and authentication of the medical certification, whether initial certification or recertification, after giving the employee an opportunity to cure any deficiencies. To make such contact, the District must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider. "Authentication" means providing the health care provider with a copy of the certification and requesting verification that the information contained on the certification form was completed and/or authorized by the health care provider who signed the document; no additional medical information may be requested. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of a response.

If the Superintendent or his/her designee or the employee's immediate supervisor has reason to doubt the validity of a certification, he/she may require, at the District's expense, that the employee obtain the opinion of a second healthcare provider designated or approved by the Superintendent or his/her designee.

If the first and second opinions of the healthcare providers are conflicting, the opinion of a third healthcare provider designated or approved jointly by the Superintendent or his/her designee may

## **PAGE 8 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

require the employee or family member to submit to an examination (though not treatment) to obtain a second or third certification from a healthcare provider other than a Christian Science practitioner.

The Superintendent or his/her designee may require subsequent recertification on a reasonable basis but no more often than every 30 days unless one of the following occurs:

- the employee requests an extension of leave;
- the circumstances described by the original certification have changed significantly; or
- the Superintendent or his/her designee receives information which casts doubt on the continuing validity of the prior certification.

### **Employment and benefits protection**

#### Restoration to position

Any employee who takes leave for the intended purpose of the leave will be entitled, on return from leave, to be restored to the position of employment held by the employee when the leave commenced or to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.

A restored employee is not entitled to the accrual of any seniority or any right, benefit or position of employment other than that to which the employee would have been entitled had the leave not been taken.

As a condition of restoration for an employee who has taken leave due to his/her own serious health condition, the employee must provide a certification from the healthcare provider stating that the employee is able to resume work.

An employee on leave must report periodically to his/her immediate supervisor on his/her status and intention to return to work.

#### Exemption of certain highly compensated employees

The Superintendent or his/her designee may deny restoration to a salaried employee who is among the highest paid 10 percent of District employees under the following circumstances:

- such denial is necessary to prevent substantial and grievous economic injury to the operations of the District;
- the Superintendent or his/her designee notifies the employee of the intent to deny restoration at the time he/she determines such injury would occur; or
- if leave has commenced, the employee decides not to return to work.

If the Superintendent or his/her designee believes that reinstatement may be denied to a key employee, the Superintendent or his/her designee must give written notice to the employee at the time leave is requested that he/she qualifies as a key employee. In addition, the employee must

## **PAGE 9 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if it is determined that substantial and grievous economic injury will result from the employee's reinstatement.

As soon as the Superintendent or his/her designee determines that such an injury will result from reinstatement, he/she must again notify the employee in writing of this determination and advise the employee that the District cannot deny leave but that it intends to deny restoration to employment on completion of the leave. This notice must be delivered in person or by certified mail. It also must explain the basis for the finding that substantial and grievous economic injury will result and must provide the employee a reasonable time in which to return to work.

Once the key employee's leave has expired, he/she still is entitled to request reinstatement. The Superintendent or his/her designee must then determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. If it is determined that such an injury will result, the Superintendent or his/her designee will notify the employee in writing of the denial of restoration. This notice must be delivered in person or by certified mail.

### **Maintenance of health benefits**

During an employee's leave, the District will maintain coverage under any group health plan at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

The employee must continue to pay his/her portion of all insurance premiums to maintain coverage. If an employee's premium payment is more than 30 days late, the District may discontinue coverage of the employee under the policy. The District will provide 15 days advance notice before any such cancellation of coverage.

If coverage lapses because an employee has not made premium payments, upon the employee's return from leave, the District will restore the employee to coverage and benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed. The employee will have 31 days to reinstate their coverage. The employee may be required to reinstate coverage to the date lapsed as specified by the State Employee Insurance Program. The employee will be required to pay any past-due insurance premiums.

If the District continues coverage under the policy by paying the employee's portion of the premiums, the District is entitled to recover all such payments. Further, the District may recover from an employee its share of health plan premiums paid during a period of leave under this policy if the employee fails to return to work at the expiration of the leave, unless the reason for the employee's failure to return is due to the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control. If an employee fails to return because of the continuation, recurrence or onset of a serious health condition, the employee must provide a certification of the employee's or family member's serious health condition. The District also will not seek recovery for its share of premiums for any portion of paid leave substituted or used by an employee.

**Intermittent or reduced schedule leave for instructional employees**

If an eligible employee employed principally in an instructional capacity requests leave to care for a serious ill spouse, child or parent or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the Superintendent or his/her designee, in consultation with the school principal, may require that the employee elect either of the following:

- to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatments; or
- to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and which better accommodates recurring periods of leave.

**Rules applicable to periods near the conclusion of an academic term for employees employed principally in an instructional capacity**

If an eligible employee employed principally in an instructional capacity begins leave more than five weeks prior to the end of an academic semester, the Superintendent or his/her designee, in consultation with the school principal, may require the employee to continue taking leave until the end of the semester under the following conditions:

- the leave is of at least three weeks duration; or
- the return would occur during the three-week period before the end of the term

If an eligible employee employed principally in an instructional capacity begins leave for the birth or placement of a child or to care for a seriously ill child, spouse or parent during the period that commences five weeks prior to the end of an academic semester, the Superintendent or his/her designee, in consultation with the school principal, may require the employee to remain on leave until the end of the semester under the following circumstances:

- the leave is greater than two weeks; or
- the return to employment would occur during the two-week period before the end of the term

If an employee employed principally in an instructional capacity begins leave for the birth or placement of a child or to care for a seriously ill spouse, child or parent during the period that commences three weeks prior to the end of an academic semester and the duration of the leave is greater than five working days, the Superintendent or his/her designee, in consultation with the school principal, may require the employee to continue taking leave until the end of the term.

If the District requires an employee to remain on leave until the end of an academic term and this results in the employee taking more leave than is necessary to resolve the condition which necessitated the leave, the additional leave time required to be taken will not be deducted from the employee's total available FMLA leave. The employee, however, will continue during this

**PAGE 11 – GCC-R/GDC-R – EMPLOYEE PERSONAL LEAVES AND ABSENCES**

time to be entitled to the maintenance of health benefits and job restoration in accordance with this administrative rule.

Issued 4/25/78; Revised 5/14/85, 8/24/93, 4/19/94, 7/18/95, 5/28/96, 11/12/02, 7/12/05, 2/24/09