

BERMUDIAN SPRINGS SCHOOL DISTRICT
FMLA – ADMINISTRATIVE REGULATIONS

535-AR. FAMILY AND MEDICAL LEAVES - ELIGIBILITY/TYPES OF LEAVES

The purpose of the Family And Medical Leave Act (FMLA) is to enable employees to be absent from work for specific family and medical reasons without losing certain benefits for a designated number of workweeks.

An employee on FMLA leave is prohibited from engaging in self-employment and in employment with another employer.

Falsification of records and failure to correct records known to be false are violations of Board policy and these administrative regulations and will result in discipline, which may include termination of employment.

Eligibility

An employee who has been employed by the district for at least twelve (12) months is eligible for FMLA leave, provided the employee worked at least 1,250 hours in the twelve (12) months preceding the beginning of the leave.

All the hours an employee works, including overtime, are considered hours worked. Paid leave time, such as vacations, sick leave, personal leave and holidays are not considered hours worked.

Full-time instructional employees meet the minimum hours requirement.

Reasons For Leave

An eligible employee qualifies for FMLA leave for the following reasons:

1. Birth and first-year care of a child.
2. Adoption or foster placement of a child.
3. Serious illness of an employee's spouse, child or parent.
4. Serious health condition that makes the employee unable to perform the essential functions of the employee's job.
5. Qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty as a member of the National Guard or Reserves in support of a contingency operation.

6. Care of a spouse, child, parent or next of kin in the regular Armed Forces, National Guard or Reserves who is a covered servicemember undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty.

Amount Of Leave

An eligible employee may take up to twelve (12) workweeks of unpaid leave in a twelve-month period for the employee's own serious health condition; for the birth, adoption, foster placement or first-year care of a child; to care for a seriously ill spouse, child or parent; or to address certain qualifying exigencies.

An eligible employee may take up to twenty-six (26) workweeks of unpaid leave in a single twelve-month period to care for an ill or injured covered servicemember.

Leave to care for an ill or injured covered servicemember, when combined with other qualifying leave under FMLA, will not exceed twenty-six (26) workweeks in a single twelve-month period.

Spouses Employed By District

A husband and wife employed by the district who are both eligible for FMLA leave will be limited to a combined total of twelve (12) workweeks per year when the leave is taken for the birth, adoption, foster placement or first-year care of a child or to care for a parent with a serious health condition.

A husband and wife employed by the district who are both eligible for FMLA leave will be limited to a combined total of twenty-six (26) workweeks per year if the leave is taken to care for a covered servicemember or is taken as a combination of leave to care for a covered servicemember and leave for the birth, adoption or foster placement of a child; to care for a child after birth, adoption or foster placement; or to care for a parent with a serious health condition.

If the FMLA leave taken by a husband and wife employed by the district includes a combination of leave taken for the birth, adoption or foster placement of a child or to care for the child after birth, adoption or foster placement, and to care for a parent with a serious health condition, the leave will be limited to twelve (12) workweeks per year.

Intermittent/Reduced Schedule Leave

An employee is eligible for intermittent or reduced schedule leave for the employee's own serious health condition; to care for a seriously ill spouse, child or parent; to care for a seriously injured or ill covered servicemember; or for a qualifying exigency.

Intermittent leave is taken in separate blocks of time due to a single illness or injury, rather than one (1) continuous period of time.

Reduced schedule leave reduces an employee's usual number of working hours per workweek or

hours per workday.

When an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the district may temporarily transfer that employee to an available alternative position with equivalent pay and benefits that better accommodates the employee's requested leave.

Substitution Of Paid Leave

An employee may elect or the district may require an employee to substitute any type of accrued paid leave for some or all the unpaid FMLA leave, in accordance with Board policy or a collective bargaining agreement.

Birth/Adoption/Foster Placement Of Child

An employee's eligibility for leave for a birth, adoption, foster placement or first-year care of a child expires at the end of the twelve-month period beginning on the date of the birth, adoption or foster placement.

If the necessity for leave is foreseeable based on an expected birth or placement, the employee will notify the district at least thirty (30) days prior to the beginning date of the leave. If the date of birth or placement requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

An employee will be permitted to take intermittent or reduced schedule leave for the birth, adoption, foster placement or first-year care of a child only with Board approval.

Serious Health Condition Of Employee

An employee is eligible for leave for a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment by a health care provider.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the district's established procedures for requesting leave.

The district will require that a request for leave because of the employee's own serious health condition be supported by a certification issued by the employee's health care provider. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is unable to perform the essential functions of the employee's job.

When medically necessary, an employee is eligible to take intermittent or reduced schedule leave for planned medical treatment or because of a serious health condition. The required certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the expected duration of such treatments.

Serious Health Condition Of Spouse/Child/Parent

An employee is eligible for leave to care for a spouse, child or parent with a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment by a health care provider.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the district's established procedures for requesting leave.

The district will require that a request for leave to care for an employee's spouse, child or parent with a serious health condition be supported by a certification issued by a health care provider for the family member with a serious health condition. The employee will provide the certification in a timely manner. The certification must include the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is needed to care for the family member.
5. Estimate of the amount of time the employee is needed to care for the family member.

When medically necessary, an employee is eligible to take intermittent or reduced schedule leave for planned medical treatment for a serious health condition of a spouse, child or parent. The

required certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the duration of such treatments.

Qualifying Exigency - Active Duty/Call To Active Duty

An employee will be eligible for leave because of a qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call to active duty. An employee may take FMLA leave for the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Additional activities, agreed to by the district and the employee.

If the necessity for leave is foreseeable, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the district's established procedures for requesting leave.

The district may require that a request for leave because of a qualified exigency be supported by a certification. If the district requests a certification, the employee will provide it in a timely manner. The certification must contain the following:

1. Date the qualifying exigency began or will begin.
2. Probable duration and frequency of absence(s).
3. Statement of appropriate facts regarding the qualifying exigency.
4. If the exigency involves a meeting with a third party, the third party's contact information and a description of the meeting.

The employee should attach a copy of the covered servicemember's active duty orders or other documentation from the military certifying that the covered servicemember is on active duty or has been notified of an impending call to active duty in support of a contingency operation to the

certification.

Military Caregiver - Care Of Covered Servicemember

An employee is eligible for leave to care for a current member of the Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the district's established procedures for requesting leave.

The district will require that a request for leave to care for a covered servicemember be supported by a certification signed by the servicemember's health care provider. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition, injury or illness began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Estimate of the amount of time the servicemember will need care.

When medically necessary, an employee is eligible to take intermittent or reduced schedule leave for planned medical treatment for a covered servicemember. The required certification must contain the expected treatment dates and the duration of such treatments.

Instructional Employees

Specific rules apply to instructional employees, in addition to Board policy and the administrative regulations covering all employees.

Instructional employees are those whose principal function is to teach and instruct students in a class, a small group or an individual setting. Such employees include teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired.

When an instructional employee requests intermittent leave or reduced schedule leave because of the employee's own serious health condition, to care for a spouse, child or parent with a serious health condition, or to care for a covered servicemember with a serious illness or injury; the

leave is foreseeable based on planned medical treatment; and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period of leave, the district may require the employee to elect either of the following:

1. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment.
2. To transfer temporarily to an available alternative position offered by the district for which the employee is qualified and has equivalent pay and benefits and better accommodates recurring periods of leave than does the employee's regular position.

When an instructional employee begins FMLA leave more than five (5) weeks before the end of an academic term, the district may require the employee to continue the leave until the end of the term if the leave is at least three (3) weeks in duration and the return to work would occur during the last three (3) weeks of the academic term.

When an instructional employee begins FMLA leave for a purpose other than the employee's own serious health condition or qualifying exigency during the five-week period before the end of an academic term, the district may require the employee to continue the leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of the academic term.

When an instructional employee begins FMLA leave for a purpose other than the employee's own serious health condition or qualifying exigency during the three-week period before the end of an academic term, the district may require the employee to continue the leave until the end of an academic term if the leave is longer than five (5) working days in duration.

When an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work will be counted against the FMLA leave entitlement. However, the district will continue the group health insurance coverage under the same conditions as if the employee were working.