

**BOARD OF EDUCATION**  
**Cherry Hill, New Jersey**

**POLICY 4151.2**

**FAMILY LEAVE**

In accordance with the New Jersey Family Leave Act (“FLA”), N.J.S.A. 34:11B-1 et seq., and the Federal Family and Medical Leave Act (“FMLA”), 29 U.S.C.A. 2601 et seq., the Board of Education will grant staff members up to twelve weeks’ leave of absence in any twelve (under the FMLA) or twenty-four month (under the FLA) period to provide care made necessary by the birth or adoption of a child or by the serious health condition of a spouse, parent, or child, or under the FMLA, for the employee’s own serious health condition. Because employees are eligible for Family Leaves under both the Federal and State laws, and each has different requirements and entitlements (e.g., employees are not entitled to leave under the state law due to their own illness), it is important that notice and record-keeping requirements be adhered to by both staff members and administration.

No employee shall be required to take family leave or to extend family leave beyond the time requested. No employee shall be discriminated against for having exercised his or her rights under the FLA or FMLA or be discouraged from the use of family leave.

For the purposes of this policy, a “parent” is a biological, adoptive, or foster parent; stepparent; parent-in-law; a legal guardian in a parent-child relationship; or a person who has the sole or joint legal or physical custody, care, guardianship, or visitation with a child. For family members, a “serious health condition” is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider. For employees under the FMLA, a “serious health condition” is one involving continuing treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves either two or more treatments by a health care provider or treatment by a health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider. Over the counter medications, bed rest, taking of fluids, exercise and other activities that can be initiated without a visit to a health care provider do not constitute continuing treatment. A “week” is the number of days an employee normally works each calendar week.

Eligibility

An employee shall become eligible for family leave under the FLA after he or she has worked twelve months in the District and at least one thousand hours, excluding

overtime, during the previous twelve month period. The calculation of the twenty-four month period shall commence with the commencement of the family leave. Leave taken for the birth or adoption of a child may commence at any time within one year after the birth or adoption, regardless of when the birth or adoption occurs.

For leaves provided under the FMLA, an employee shall become eligible after he or she has worked twelve months in the District and at least 1250 hours, including overtime, in the previous twelve month period. The calculation of the twelve month period under the FMLA also commences with the commencement of the family leave.

An employee on family leave shall not work full-time for another employer, unless he or she was so employed full-time prior to the commencement of family leave. An employee on family leave may work part-time up to half of the hours regularly worked for this Board prior to the family leave or part-time in any employment outside the District that commenced prior to the family leave.

#### Types of Leave

An employee may take family leave in consecutive weeks, as intermittent leave, or as reduced leave. An employee who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional program.

1. **Intermittent leave** under the FLA is non-consecutive leave comprised of intervals each of which is at least one, but less than twelve weeks, within a consecutive twelve month period for each single serious health condition. Under the FMLA, there is no specified duration or time frame for the intermittent leave. An employee is entitled to take intermittent leave when medically necessary for the serious medical condition of a family member, but the employee and the Board must agree to intermittent leave for the birth or adoption of a child.
2. **Reduced leave** under the FLA is non-consecutive leave of up to the equivalent of twelve weeks that is taken in increments of less than one full week at a time but not less than one workday, unless the Board and employee agree to a shortened workday. Reduced leave may not be scheduled for more than twenty-four consecutive weeks. An employee is entitled to take only one reduced leave schedule within a twenty-four month period. Under the FMLA, a reduced leave may reduce the usual number of hours in a work week or work day. An employee is entitled to take reduced leave for the serious medical condition of a family member, but the employee and the Board must agree to reduced leave for the birth or adoption of a child.

Any leave time remaining after an employee has exhausted his or her entitlement to intermittent leave may be taken as consecutive leave or reduced leave and any leave time remaining after an employee has exhausted his or her entitlement to reduced leave may be taken as consecutive leave or intermittent leave.

### Notice

An employee eligible for family leave must give reasonable advance notice in writing to the Superintendent, except where emergent circumstances warrant shorter notice. Whenever emergent circumstances make written notice impractical, the employee may give oral notice to the Superintendent, but any oral notice must be followed by written notice delivered within five days.

1. Notice for leave to be taken for the birth or adoption of a child shall be given at least thirty days prior to the commencement of the leave.
2. Notice for leave to be taken for the serious medical condition of a family member shall be given at least fifteen days prior to the commencement of leave.

### Benefits

Family leave shall be unpaid leave.

In accordance with law, the Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the employee had not been absent on family leave.

An employee returning from family leave shall be entitled to the position he or she held when leave commenced or to a similar position, full-time or part-time, within his or her certification, except as his or her entitlement to a position may have been affected by a reduction in force. The employee's tenure and seniority rights, if any, and other benefits shall be preserved, but the employee shall accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of an employee prior to the expiration of family leave shall be permitted if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.

Family leave granted to a nontenured employee cannot work to extend the employee's employment beyond the expiration of his or her employment contract.

Verification of Leave

The Board shall require the certification of the health care provider verifying the purpose of requested family leave. Certification of a serious health condition shall contain the date on which the condition commenced, its probable duration, and relevant medical information known to the provider. Certification of a birth or adoption shall contain the projected date of birth or placement. In the event the Board doubts the validity of the certification, the employee shall obtain the opinion of a second health care provider approved by the Board. If the certification and opinion disagree, the employee shall, at Board expense, obtain an opinion from a third health care provider approved by both the employee and the Board. The opinion of the third health care provider shall be final and binding.

In order that an employee's entitlement to family leave can be properly determined, the Superintendent shall insure the keeping of accurate attendance records that distinguish family leave from other kinds of leave.

*Legal References:           None at this time*

Formerly Policy GCRIJ

Adopted:       8/21/95

Renumbered: 3/26/02