

## PERSONNEL – ADMINISTRATIVE PROCEDURES

### GENERAL PERSONNEL – Family and Medical Leave Act (FMLA)

In order to comply with the Family and Medical Leave Act (FMLA), the following procedures will be utilized. An eligible employee must direct his/her request to take FMLA to the Regional Superintendent and will be required to complete a “Request for Family/Medical Leave” form at that time.

If the need for leave is foreseeable, the employee must provide the ROE with at least 30 calendar days advance notice prior to the expected start of the leave. If 30 days advance notice is not possible, the employee must provide the ROE with as much advance notice as possible, ordinarily within one or two business days of when the need for leave becomes known to the employee. If required notice is not provided, the ROE may delay the start of the leave to the extent of any required notice period. If the employee is physically or mentally unable to notify the ROE, a member of employee’s family or other representative must do so on the employee’s behalf.

If leave is due to the serious health condition of the employee or the employee’s family member, and is for planned medical treatment, the employee must attempt to schedule treatment so as not to unduly disrupt ROE operations.

In addition, if leave is due to the serious health condition of the employee or the employee’s family member, the employee is required in all cases to provide a health care provider’s certification of the serious health condition on a form that will be provided by the ROE at the time the request for leave is made. If leave is due to another reason, appropriate certification may be required. In any case, the completed certification must be submitted by the employee to the ROE within 15 calendar days after the ROE requests it.

With respect to the medical certification of a serious health condition, the ROE has the right to require the employee to obtain a second opinion at the ROE’s expense. In the event of conflicting opinions, the ROE may require the employee to obtain certification from a third health care provider who is designated or approved jointly by the ROE and the employee, again at the ROE’s expense. The third opinion will be final and binding.

### Approval of the Leave

Ordinarily, the ROE will preliminarily notify the employee who properly has requested

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leave whether the request has been granted within two business days of learning the reason for the request. Upon submission of all required information and documents (e.g., medical certifications), the preliminary notice will become final unless revoked in writing by the ROE and, if necessary, replaced with another notification within two business days.

The ROE may designate an employee's leave as FMLA leave after the employee has returned to work where:

1. the ROE knows the reason for the leave but is waiting for the requested medical certification, as long as the ROE preliminarily designated the leave as FMLA leave as set forth above; or
2. the employee is absent for a FMLA reason and the District does not learn the reason for the absence until after the employee's return to work, as long as the leave is so designated within two business days of learning the reason for the absence, with appropriate notice to the employee.

If leave is taken for an FMLA reason and has not been so designated by the ROE, but the employee desires that the leave be counted as FMLA leave, the employee must notify the ROE within two business days of returning to work. If the employee does not provide timely notice, the employee may not subsequently assert FMLA protections for the absence.

### Substitution of Paid Leave

If the employee has an accrued vacation, sick or other paid personal time; this paid time must be used before the unpaid leave begins, depending upon the reason for the leave. In addition, if the requested leave is due to the serious health condition of the employee, any salary continuation benefits for which the employee is otherwise eligible pursuant to a disability benefit plan or workers' compensation law, may be used in conjunction with paid vacation or other paid personal time, provided that total payments do not exceed 100% of normal base pay. All paid leave will run concurrently with the employee's FMLA leave entitlement. The employee must comply with all requirements of the policy or plan providing for paid leave.

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Reporting Requirements During the Leave

During the FMLA leave, the employee is required to contact the Regional Superintendent every two weeks to verify his/her status and his/her intent to return to work.

Where the leave is due to the serious health condition of the employee or the employee's family member, the ROE may require subsequent recertification of the serious medical condition on a reasonable basis (generally not more often than every 30 days), and will require recertification if the employee requests a leave extension, circumstances otherwise change significantly, or the ROE receives information that casts doubt upon the employee's stated reason for the absence.

The employee is responsible for timely requesting any desired extension of FMLA leave. Extension of a leave should be requested, if circumstances allow, at least seven days prior to the expiration of the initial leave.

Requirements Prior to Return from Leave

Where the leave is based upon the employee's own serious health condition, the employee must provide medical certification that the employee is able to return to work before the employee will be permitted to return to work.

STATUS OF EMPLOYEE BENEFITS DURING LEAVE OF ABSENCE

The employee must make arrangements with the ROE for the payment of the employee's share of the health insurance premium and other group benefit premiums during the leave period (which in any event cannot exceed the amount the employee would have paid for coverage if the employee had continued to work), and must complete an "Election to Continue Insurance During Family/Medical Leave" form. The ROE will maintain and pay for the ROE's share of an eligible employee's group health insurance coverage and other group benefit coverage during the period of an FMLA leave, under the same terms and conditions as if the employee had continued to work, unless and until the employee declares intent not to return to work following the leave. Employees who do not comply with premium payment obligations during the leave period may be dropped from plan coverage until such time as the leave period terminates and they return to work.

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Consistent with ROE policy regarding all types of leave, employees on FMLA leave will not continue to accrue seniority, vacation or other benefits during the period of the leave. In addition, employees will not be paid for holidays that occur during the leave. However, the leave period will be treated as continuous service (i.e., no breach in service) for purposes of vesting and eligibility to participate in the Teachers Retirement System (TRS) or Illinois Municipal Retirement Fund (IMRF).

In the event an employee informs the ROE of an intent not to return to work from the leave, or otherwise fails to return to work upon completion of the leave, the ROE may recover from the employee the premiums paid by the ROE during the leave to maintain the employee's group health insurance coverage, unless the failure to return to work was due to the recurrence or onset of a serious health condition, or was otherwise beyond the employee's control.

### REINSTATEMENT AT THE CONCLUSION OF THE LEAVE

An employee who timely returns from FMLA leave and who used the leave for the stated purpose will be reinstated to the same position that the employee would have held had the employee not taken leave, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment, unless the employee would no longer be employed had the employee not taken leave. Determination of how an employee is returned to "an equivalent position" will be made on the basis of establishing ROE policies and practices. In addition, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

### PROHIBITIONS

Consistent with ROE policy regarding all types of leave, the following employee conduct is strictly prohibited in relation to FMLA leave:

1. Engaging in fraud, misrepresentation or providing false information to the ROE or any health care provider;
2. Having other employment during the leave without prior written approval from the Regional Superintendent;

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3. Failure to comply with the employee’s obligations under this policy; or
4. Failure to timely return from the leave.

Employees who engage in such conduct will be subject to loss of benefits, denial or termination of leave, and discipline, up to and including discharge.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

The U.S. Labor Department’s Employment Standards Administration, Wage and Hour Division enforce FMLA, including investigation of complaints. If violations cannot be satisfactorily resolved, the Department may bring action in court to compel compliance. An eligible employee may also bring a private civil action against an employer for violations.

OTHER PROVISIONS

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for the FLSA’s exemption extends only to “eligible” employees’ use of leave required by FMLA.

Approved: 07/01/01