

**FAMILY AND MEDICAL LEAVE POLICY**

**POLICY STATEMENT**

The Garretson School District shall comply with the mandatory provisions of the Family and Medical Leave Act of 1993 (FMLA) as authorized by 29 USC §2601 et seq. The superintendent shall administer this policy adopted by the board, setting forth the rights and procedures granted by the Act, and shall ensure compliance with this policy either personally, by delegation, or by some combination of personal supervision and delegation. For the purposes of this policy, an employee's right to take leave under the Family and Medical Leave Act and the district leave policy, any full-time certified staff employed by the district during the last twelve (12) months is deemed an eligible employee and is covered by this policy. Any certified staff member employed less than full-time must have been employed by the school district for at least one thousand two hundred fifty (1,250) hours during the previous twelve (12) months to be an eligible employee for purposes of this policy. A classified staff (support staff) employee must have been employed within the district for twelve (12) consecutive months and worked for the district at least one thousand two hundred fifty (1,250) hours within those twelve (12) months to be deemed an eligible employee.

**PROCEDURES FOR IMPLEMENTING FAMILY AND MEDICAL LEAVE**

- A. An eligible employee for FMLA leave under this policy shall be entitled up to a total of sixty (60) days (twelve (12) weeks) of FMLA leave per school year (July 1 to June 30) for the following qualifying reasons:
  1. The BIRTH and first year care of a newborn child (including circumstances which require leave to be taken prior to the birth of the child);
  2. The ADOPTION or FOSTER PLACEMENT of a child (including circumstances which may require leave to be taken prior to actual placement of the child);
  3. The care for an employee's spouse, son or daughter, or parent who has a SERIOUS HEALTH CONDITION; OR
  4. The employee's own SERIOUS HEALTH CONDITION that makes the employee unable to perform his or her job.
  
- B. Not all absences of an employee due to illness to the employee or family member constitutes FMLA leave due to a serious health condition under #3 and #4 above. Serious Health Condition means an illness, injury, impairment, or physical or mental injury that involves inpatient care in a hospital or residential medical care facility OR continuing treatment of the employee or family member by a health care provider due to incapacity requiring the employee to be absent from work for more than three (3) calendar days for continuing treatment of a chronic or long term health condition. (Continuing treatment means two (2) or more visits to a health care provider or when the employee or family member is under continuing supervision of the health care provider due to a serious long-term or chronic condition or disability, which cannot be cured). Short-term absences due to conditions which require only very brief treatment (if any) and recovery do not qualify for FMLA leave, although the employee would still be entitled to take sick leave pursuant to the district's sick leave policy if the employee is covered under the district's sick leave policy. The flu would be an example of such a situation. (The days taken under the district's sick leave policy but not qualifying for FMLA leave would not be deducted from the sixty (60) days of FMLA leave to which the employee is entitled in each twelve (12) month period).
  
- C. The employee taking FMLA shall be required to count and apply accrued paid sick leave days and personal leave toward the twelve (12) weeks of FMLA leave. A classified employee shall also be required to apply paid vacation days and leave against the sixty (60) days of FMLA leave to which eligible employees are entitled. If the employee does not have sufficient accrued paid sick leave

combined with paid personal leave (and for classified employees, also paid vacation days) equal to the period FMLA leave is taken, the employee is still entitled to the total twelve (12) weeks FMLA leave within the one (1) year period for FMLA qualifying reasons. When FMLA leave is taken in such instances, the difference between the employees' accrued paid leave and the sixty (60) days of FMLA leave to which the employee is entitled shall be on an unpaid leave basis.

- D. During the period of FMLA leave, the employee is entitled to continuation of any employee group health benefits that the employee was receiving when the employee began taking FMLA leave. The school district shall continue to pay its portion of the group health insurance premiums, and it shall be the employee's responsibility to continue to pay for his or her portion of said premiums. Upon return to work, the employee shall be entitled to his or her same position or any equivalent position at the same rate of pay and benefits which the employee received at the time FMLA leave began (subject to changes in district policy, in the negotiated agreement relative to salary and health insurance benefits, and subject to the district's reduction-in-force policy). A return to work during the last two (2) or three (3) weeks of a semester from FMLA leave by certified staff shall also be subject to certain restrictions as set forth in the Special Rules section. The employee shall not accrue additional benefits during the period FMLA leave is taken without pay.
- E. In the case of birth, adoption, or foster placement, the FMLA leave entitlement for childcare ends after the child reaches the age of one (1), or twelve (12) months after the adoption or placement. FMLA leave to care for a child/parent also includes the right to take FMLA leave by or for a step-parent/step-child or a person recognized as acting as a parent or a guardian (or adult with whom child resides pursuant to SDCL 13-28-10).
- F. In cases where both spouses are employed by the school district, the combined total of FMLA leave for both employees for birth, adoption, foster placement, or parent shall be limited to twelve (12) weeks total. However, this limitation does not apply to employee-spouses taking FMLA leave due to other serious health conditions of a family member.
- G. The school district, at the request of the employee, may agree to allow the employee to take FMLA leave intermittently or on a reduced hours basis, subject to the recommendations of the superintendent and approval by the school board.
- H. When FMLA leave is foreseeable in connection with birth, adoption, or foster placement of a child, or for family or employee illness, the employee shall provide thirty (30) days prior written notice of the request for FMLA leave (or as soon as possible if the employee becomes aware of the need for FMLA leave less than thirty (30) days prior to the surgery or other event) and shall make a reasonable effort to schedule treatment, including the need for intermittent and reduced hours leave, so as to not duly disrupt the operations of the school district.
- I. The district may require health provided verifications of the serious health condition from the employee's health care provider and may also require the employee to obtain a second medical opinion (at the district's expense). In the case of an employee's serious illness, in addition to the current sick leave policy requirements, the employee shall provide certification by his or her health care provider certifying that the employee is able to return to work and is able to meet the essential functions of the job.
- J. If an employee does not return to work after the FMLA leave period has expired, all employee benefits shall cease to be paid by the school district and the school district may also require the employee to reimburse the school district for

insurance premiums paid by the district while the employee was on unpaid FMLA leave, unless the failure to return to work was due to the serious health condition that entitled the employee to take FMLA leave initially or due to other circumstances beyond the control of the employee.

- K. The superintendent or designee will be available to assist employees who want to apply for FMLA leave. FMLA request forms are available at the superintendent's office.

**SPECIAL RULES SECTION APPLICABLE TO CERTIFIED EMPLOYEES**

The following special rules apply to any certified employee who takes FMLA leave under this policy and who is employed principally in an instructional capacity.

1. If FMLA leave begins with more than five (5) weeks left in the semester, the superintendent may require the employee to continue taking leave until the end of the semester, if:
  - a. The employee will be gone from work at least three (3) weeks for any of four qualifying reasons (II. A. 1-4); and
  - b. The employee would return to work in the last three (3) weeks of the semester.
2. If FMLA leave begins during the last five (5) weeks of the semester, the superintendent may require the employee to continue taking leave until the end of the semester, if:
  - a. The employee would be gone from work at least two (2) weeks for a qualifying reason (II. A. 1, 2, or 3);
  - b. The employee would return to work in the last two (2) weeks of the semester.
3. If FMLA leave begins during the last three (3) weeks of the semester, the superintendent may require the employee to continue taking leave until the end of that semester if the employee would be absent more than five (5) working days for a qualifying reason (II. A. 1, 2, or 3).
4. If the school district requires a teacher to extend FMLA leave under these special rules, the extended leave shall be counted against the employee's FMLA leave allotment.

Questions on these special rules should be addressed to the superintendent or designee.