

Regulation 4224

Personnel – Certified/Non-Certified

Family and Medical Leave Act

Purpose

To apprise employees of their rights and establish guidelines for leave taken by employees of the Waterford Board of Education under the federal Family and Medical Leave Act of 1993 (FMLA) and applicable Connecticut state law. This policy is not intended to, and does not, recite every provision of applicable law and regulations.

Eligibility

Employees other than school paraprofessionals who have been employed by the Board at least twelve (12) months and who have worked at least 1,250 actual work hours, during the twelve (12) months immediately preceding the start of a leave, are eligible for unpaid leave under the FMLA:

A school paraprofessional in an educational setting is eligible for the leave described in this policy if the paraprofessional has worked for the Board for at least twelve (12) months and has worked at least 950 service hours during the twelve (12) months immediately preceding the start of such leave.

DEFINITIONS:

Genetic information: For purposes of this policy, “genetic information” includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Instructional employee: For purposes of this policy, an “instructional employee” is defined as a teacher or other employee of the Board who is employed principally in an instructional capacity and whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

Paraprofessional: For purposes of this policy, a “paraprofessional” means a school employee who performs duties that are instructional in nature or deliver either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services. This definition is only used for the purpose of calculating eligibility for the leave described in this policy at the 950-hour threshold.

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Reasons for Leave

Leaves under the FMLA may be taken for the following reasons:

1. Incapacity due to pregnancy, prenatal medical care, or childbirth; or
2. To care for the employee's newborn child; or
3. The placement of a child with the employee by adoption or for foster care; or
4. To care for the employee's spouse, child or parent who has a serious health condition; or
5. To care for the employee's own serious health condition that renders the employee unable to perform the functions of the employee's position; or
6. To care for an injured or ill family servicemember
7. A qualifying exigency arising out of a family member's military service, including one or more of the following reasons:
 - i. short notice deployment.
 - ii. military events and related activities.
 - iii. childcare and school activities.
 - iv. financial and legal arrangements.
 - v. counseling activities
 - vi. rest and recuperation.
 - vii. post-deployment activities.
 - viii. parental care leave for military member's parent who is incapable of self-care and care is necessitated by the member's covered active duty.

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Length of Leave

(a) Basic FMLA Leave Entitlement

If a leave is requested for one of the above-listed reasons, each eligible employee may take up to a total of twelve (12) weeks unpaid family or medical leave in any 12-month entitlement period.

Any FMLA leave taken by an employee during the applicable twelve (12) month period will be used to determine the amount of available leave pursuant to the Family and Medical Leave Act. See “Method for Calculating Twelve Month Period” set forth below.

(b) Leave to care for an Injured or Ill Servicemember

In addition to the reasons for leave listed above, an eligible employee may take up to twenty-six (26) workweeks of FMLA leave during a 12-month period to care for (i) a servicemember who is the employee’s spouse, parent, child or next of kin, and who incurred a serious injury or illness in the line of duty and while on active duty in the Armed Forces or had a preexisting injury or illness prior to beginning active duty that was aggravated by service in the line of duty on active duty in the Armed Forces; or (ii) a covered veteran with a serious injury or illness who is the employee's spouse, parent, child or next of kin.

For service members, the injury or illness must render the service member medically unable to perform the duties of his/her office, grade, rank, or rating. This provision applies to service members who are undergoing medical treatment, recuperation, or therapy, are in outpatient status, or who are on the temporary disability retired list, for a serious injury or illness.

For covered veterans, the veteran must be undergoing medical treatment, recuperation or therapy for a serious injury or illness and must have been (1) a member of the Armed Forces (including the National Guard or Reserves); (2) discharged or released under conditions other than dishonorable; and (3) discharged within the five-year period before the eligible employee first takes FMLA military caregiver leave to care for the veteran.¹

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For covered veterans, serious injury or illness means any of the following:

- i. a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or
- ii. a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- iii. a physical or mental condition that has substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent of treatment; or
- iv. an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed twenty-six (26) weeks in a single twelve (12) month period. Standard FMLA leave procedures described below apply to all requests for and designation of leave for this purpose. *However*, in the case of leave to care for a service member with a serious injury or illness, the 12-month period begins on the day such leave actually commences.

Types of Leave and Conditions

(a) Full Time, Intermittent Leave/Reduced Schedule Leave

Full-time leave excuses the employee from work for a continuous period of time. Full-time unpaid leave may be taken for any of the reasons permitted by the FMLA.

Intermittent leave means leave taken due to a single qualifying reason in separate periods of time rather than for one continuous period of time. Examples of intermittent leave include leave taken one day per week over a period of a few months; or leave taken on an occasional/as-needed basis for medical appointments.

¹ The employee's first date of leave must be within the five-year period. However, the employee may continue to take leave throughout the single 12-month period even if the leave extends past the five-year period. Note: special rules may apply to calculating the five-year period for veterans discharged between October 28, 2009, and March 8, 2013. This period will effectively be excluded from the five-year calculation.

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Reduced schedule leave is leave that reduces the employee's usual number of work hours per day for some period of time. For example, an employee may request half-time work for a number of weeks so the employee can assist in the care of a seriously ill parent.

Intermittent or reduced schedule leave may be taken (a) when medically necessary for an employee's or covered family member's serious health condition, or for a covered service member's serious illness or injury, and (b) the need for leave can be best accommodated through an intermittent or reduced schedule leave. In addition, FMLA leave may be taken intermittently or on a reduced schedule basis (1) due to a qualifying exigency; or (2) to effectuate the placement of a child for adoption or foster care before the placement of the child in the home.

If foreseeable intermittent or reduced schedule leave is medically required, based upon planned medical treatment of the employee or a family member or a covered service member, including during a period of recovery from an employee's or family member's serious health condition or a serious injury or illness of a covered service member, the Board may, in its sole discretion, temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates the type of leave requested. Also, special arrangements may be required of an instructional employee who needs to take intermittent or reduced-schedule leave which will involve absence for more than twenty (20) percent of the workdays in the period over which the leave will extend (for example, more than five days over a five-week period).

In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the Superintendent has the option, in his/her sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have pay and benefits equivalent to the employee's regular job. The shortest period of time (one hour) that the payroll system uses to account for absences or leave shall constitute the minimum intermittent or reduced leave increment.

(b) Both Spouses Working in the School District

If both spouses are eligible employees of the Board and request leave for the birth, placement of a child by adoption or for foster care, or to care for a parent, with a serious health condition, they only will be entitled to a maximum combined total leave equal to twelve (12) weeks in the 12-month entitlement period. If either spouse (or both) uses a portion of the total 12-week entitlement for one of the purposes in the preceding sentence, each is entitled to the difference between the amount the employee has taken individually and the 12 weeks for FMLA leave for their own or their spouse's serious health condition in the 12-month entitlement periods.

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(c) Leave Taken by Instructional Employees Near the End of an Academic Term If a leave taken by an instructional employee for any reason begins more than five (5) weeks before the end of an academic term, the Board may require that instructional employee to continue the leave until the end of the term if the leave will last at least three (3) weeks and the instructional employee would return to work during the three-week period before the end of the term.

If the employee begins a leave during the five-week period preceding the end of an academic term for a reason other than the employee's own serious health condition, the Board may require the employee to continue taking leave until the end of the term if the leave will last more than two (2) weeks and the employee would return to work during the two-week period before the end of the term.

If the instructional employee begins a leave during the three-week period preceding the end of an academic term for a reason other than the instructional employee's own serious health condition, the Board may require the instructional employee to continue taking leave until the end of the term if the leave will last more than five (5) working days.

Serious Health Condition

For purposes of this regulation, a “serious health condition” means an illness, injury, impairment or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to in-patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
2. Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three (3) calendar days, that also involves continuous treatment by (or under the supervision of) a health care provider,
3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or
4. Prenatal care.

Use of Paid Leave

Employees may be required to use their available accrued leave time, such as personal leave and/or vacation time, during the twelve (12) week FMLA leave period, and available sick days when FMLA leave is taken because of a serious health condition of the employee. The Board’s policies, practice(s) and/or collective bargaining agreement(s) regarding vacation time, personal days, sick days, or other leave time will determine if an employee is eligible to receive accrued paid or unpaid leave. The employee will be notified in writing when the leave is approved and will be counted towards the twelve (12) weeks of FMLA leave.

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An employee must notify the Human Resources Director of Waterford Public Schools of the need for a family or medical leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable based on the expected birth of the employee's child, placement of a child with the employee for adoption or foster care, planned medical treatment for the employee's or family member's serious health condition, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, then the employee must provide notice as soon as practicable under the circumstances, usually the same day or the next business day after the employee becomes aware of the need for FMLA leave.

(b) Qualifying Exigency.

An employee must provide notice as soon as practicable if the foreseeable leave is for a qualifying exigency, regardless of how far in advance such leave is foreseeable.

(c) Unforeseeable Leave.

When the employee's need for leave is not foreseeable, an employee must provide notice as practicable under the circumstances.

SCHEDULING PLANNED MEDICAL TREATMENT

When planning medical treatment for foreseeable FMLA leave, an employee must consult with the Human Resources Director of Waterford Public Schools and make a reasonable effort to schedule the treatment so as not to unduly disrupt the Board's operations, subject to the approval of the health care provider. Similarly, if an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the Board's operations. Ordinarily, the employee should consult with the Human Resources Director of Waterford Public Schools to scheduling the treatment in order to work out a treatment schedule that best suits the needs of the Board and the employee. The Board and the employee shall attempt to work out a schedule for leave that meets the employee's needs without unduly disrupting the Board's operations, subject to the approval of the health care provider as to any modification of the treatment schedule.

REQUIRED CERTIFICATIONS/DOCUMENTATION

For leaves taken for any FMLA-qualifying reason, an employee must submit a completed certification form supporting the need for leave. The appropriate form will be provided to the employee. The employee must submit a complete and sufficient certification form as required within

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fifteen (15) calendar days of receiving the request for the completed certification. If it is not practicable for the employee to provide the completed form by the due date despite the employee's diligent, good faith efforts, the employee must inform the Human Resources Director of Waterford Public schools of the reason(s) for delay and what efforts the employee undertook to obtain the required certification. FMLA-protected leave may be delayed or denied if the employee does not provide a complete and sufficient certification as required. Depending on the reason for leave, an employee may be required to submit medical certification from the employee's health care provider, medical certification the employee's family member's health care provider, and/or other documentation (e.g., to establish a family relationship, military active-duty orders, etc.). In certain circumstances and under certain conditions, employees may also be required to obtain second or third medical opinions and/or recertifications, in accordance with applicable law.

Any leave request based on a family member's or employee's own serious health condition may have to be supported by certification from a health care provider. The employee must provide a copy of the certification to the Superintendent or Human Resources Director in a timely manner. (Fifteen (15) calendar days will be allowed to provide the certification.) Certification from the health care provider must contain:

1. The date the serious health condition began.
2. The possible duration of the condition(s).
3. If the leave is based on the care of a spouse, child or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue.
4. In the case of intermittent leave or leave on a reduced hours basis for planned medical treatment, the date the treatment is expected to be given and the duration of the treatment; and
5. Confirmation that the employee is unable to work.

Leave may be denied until such certification is provided.

Health Insurance

During FMLA leaves of absence, the Board will continue to pay its portion of the health insurance premiums. The employee must continue to pay the employee's share of the premiums. Payments are due on the last business day of each month for the next month's coverage. Failure of the employee to pay his/her share of the health insurance premiums may result in loss of coverage. If the employee does not return to work after the expiration of leave, the employee will be required to reimburse the Board for payment of health insurance premiums during the FMLA leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his/her job, or circumstances beyond the control of the employee.

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Other Benefits

During the FMLA leave, when no other leave is substituted, the employee shall not accrue any additional benefits. Employment benefits accrued by the employee up to the day on which the FMLA leave of absence begins will be available upon return from leave. Leave taken under this policy does not constitute an absence under the Board's attendance policy.

With respect to pension and retirement plans, FMLA leave will be treated as continued service for purposes of vesting and eligibility to participate.

Return to Work

The Superintendent may require an employee on FMLA leave to report to the Human Resources Director periodically on his/her status and intention to return to work. Also, periodic recertification of the medical condition may be required. At least fifteen (15) days prior to the reported anticipated expiration of the leave the employee must confirm that he/she is returning to work or ask for a modification of the leave.

An employee taking leave due to the employee's serious health condition may be required to obtain certification that the employee is able to resume work prior to returning from any FMLA leave. The Superintendent in consultation with the Human Resources Director will consider the nature of the employee's serious health condition, and the demands of the employee's position, when deciding whether to require certification of ability to resume work. An employee will be denied restoration until the required certification is provided.

Employees who return to work from FMLA leave of absence within or on the business day following the expiration of the twelve (12) weeks are entitled to return to the job held prior to the leave or an equivalent position without loss of benefits or pay.

Method for Calculating Twelve (12) Month Period

For purposes of this regulation, the following twelve (12) month period shall apply:

The first date of leave forward

If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the twelve (12) weeks of leave to which an employee is entitled. Where an employee normally works a part time schedule, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis. If any employee's schedule varies from week to week, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave period is used for calculating the employee's normal work week.

Intermittent Leave/Reduced Leave - Instructional Employees

If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule

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to care for a family member, 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 more than twenty-percent (20%) of the total number of working days over the period the leave would extend, the Superintendent of Schools, at his/her option, may require the employee to choose either to:

1. Take leave for a period or periods of particular duration, not greater than the duration of the planned treatment; or
2. Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and better accommodates recurring periods of leave than does the employee's regular position.

An instructional employee who does not give required notice of foreseeable leave to be taken intermittently or on a reduced leave schedule, may be required by the Superintendent of Schools to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the Superintendent of Schools may require the employee to delay the taking of leave until the notice provision is met. This notice provision, however, shall not be interpreted to be stricter for purposes of FMLA leave than the Board requires from its employees otherwise taking comparable paid or unpaid leave.

Records

The FMLA requires employers to maintain records in accordance with the record keeping requirements of Section 11(c) of the Fair Labor Standards Act and in accordance with FMLA regulations. FMLA regulations require that such records disclose the following:

1. Name, address, and occupation of the employee; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; and total compensation paid.
2. Dates FMLA leave is taken by employee. Leave must be designated in records as FMLA leave.
3. If FMLA leave is taken in increments of less than one (1) full day, the hours of the leave.
4. Any written notice of FMLA leave given by employees, and copies of all notices given to employees as required by law and by this regulation.
5. Any documents describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves.
6. Payment of any employee benefits premiums; and
7. Records of any dispute regarding designation of leave as FMLA leave, including any written statement from the Superintendent of Schools, Human Resources Director, or an employee of the reasons for the designation and for the disagreement.

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Family and Medical Leave Act (continued) Medical Records

Records and documents relating to medical certifications, recertifications or medical histories of employees or employees' family members, shall be maintained in separate files/records and treated as confidential medical records.

Forms

All applicable forms on the United States Department of Labor, Wage and Hour Division's Family and Medical Leave Act site should be utilized to ensure compliance with federal law. Forms can be located on the website at: <http://www.dol.gov/whd/fmla/> or in the Waterford Human Resources Office.

Additional forms specific to the Waterford Board of Education follow this regulation.

Legal References:

Connecticut General Statutes:

Conn. Gen. Stat. § 31-51rr Family and medical leave benefits for employees of political subdivisions

Regs. Conn. State Agencies 31-51rr-1, et seq.

United States Code:

Family and Medical Leave Act of 1993, 29 U.S.C. Section 2601 et seq., as amended

29 CFR Part 825.100 et seq.

Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff et seq.

29 CFR 1635.1 et seq.

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Regulation revised: October 24, 2019
Regulation Revised: August 24, 2023

WATERFORD PUBLIC SCHOOLS
Waterford, Connecticut

Statement of Insurance Premiums Due

Employee:

Social Security Number:

An employee who is on FMLA leave may retain insurance coverage provided the employee pays his/her share of the premiums by personal check to the Waterford Public Schools. If payment is not received by the last business day of each month, then the insurance coverage may be cancelled for "non-payment of premium."

Premiums are due on:

COVERAGES	
Medical Insurance	
Life Insurance	
Dental Insurance	
Other	
Total Amount Due	

A check for the amount due should be made payable to:

"Town of Waterford" for medical and/or dental insurance and
"Waterford Public Schools" for life insurance, and mailed to the following address:

Waterford Public Schools
Human Resources Office
P.O. Box 284
15 Rope Ferry Road
Waterford, CT 06385