

Family, Medical, and Maternity Leave

I. State Paid Family and Medical Leave

Paid family and medical leave are benefits administered by the Washington State Employment Security Department. Employees interested in applying for these benefits must follow the process described in Chapter 192-610 WAC. Employees who have questions regarding the application process may contact the Employment Security Department or visit its website at paidleave.wa.gov. The district will post notices made available by the Employment Security Department that provide pertinent information regarding paid family and medical leave benefits.

A brief description of the paid family and medical leave benefits program is provided below. The description is not meant to capture every aspect of the program; rather, it is meant to give a general overview.

1. *Eligibility*

Employees who have worked 820 hours during the first four of the last five completed calendar quarters or the last four completed calendar quarters are eligible for paid family and medical leave.

2. *Reasons for leave*

Family leave means leave taken by an employee from work for the following reasons:

- A. To participate in providing care, including physical or psychological care, for a family member made necessary by a serious health condition of the family member;
- B. To bond with the employee's child during the first 12 months after the child's birth, or the first 12 months after the placement of a child under the age of eighteen within the employee; or
- C. Because of any qualifying exigency as permitted under the federal family and medical leave act for family members as defined by RCW 50A.05.010(10).

Medical leave means any leave taken by an employee from work made necessary by the employee's own serious health condition as defined by RCW 50A.05.010(20).

3. *Amount of leave*

Employees may take up to 12 weeks of paid family leave during a period of 52 consecutive calendar weeks.

Employees may take up to 12 weeks of paid medical leave during a period of 52 consecutive calendar weeks. Paid medical leave may be extended by two weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

Employees may take a combined 16 weeks of paid family and paid medical leave during a period of 52 consecutive calendar weeks. The combined total may be extended to 18 weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

4. *Employee notice to district*

An employee must provide the district at least 30 days' written notice before paid family or medical leave is to begin if the need for the leave is foreseeable based on an expected birth, placement of a child, or planned medical treatment for a serious health condition.

An employee must provide the district written notice as soon as practicable when 30 days' notice is not possible because of a lack of knowledge of approximately when leave will be required to begin, because of a change in circumstances, or because of a medical emergency.

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

The notice must be in writing and contain at least the anticipated timing and duration of the leave.

5. *District notice to employee*

Whenever the district becomes aware that an employee is absent from work for more than seven consecutive days to take family or medical leave, the district will provide the employee with a written statement provided by the Employment Security Department of the employee's rights.

The notice will be sent by the fifth business day after the employee's seventh consecutive missed day of work due to family or medical leave or by the fifth business day after the employer becomes aware that the employee's absence is due to family or medical leave, whichever is later.

6. *Employment restoration*

Upon return from paid family or medical leave, an employee is entitled to be restored to the position of employment held by the employee when the leave commenced or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

As a condition of restoration for employees who have taken medical leave, the district may require those employees to receive certification from their health care provider that they are able to resume work.

The district may deny restoration to any salaried employee who is among the highest paid ten percent of its employees if the following apply:

- A. Denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;
- B. The district notifies the employee of its intent to deny restoration on such basis at the time the district determines the injury would occur; and
- C. The leave has commenced and the employee elects not to return to employment after receiving the notice.

The district may also deny restoration if the employee would not otherwise have been employed at the time of reinstatement.

If the district chooses to deny restoration, it will provide written notice of such denial in person or by certified mail. The notice will include a statement that the district intends to deny employment restoration when the leave has ended, the reasons behind the decision to deny restoration, an explanation that health benefits will still be paid for the duration of the leave, and the date on which eligibility for employer-provided health benefits ends.

The rights described above only apply in the following circumstances: the district has 50 or more employees; the employee has been employed by the district for twelve months or more; and the employee has worked for the district for at least 1,250 hours during the 12 months immediately preceding the date on which leave will commence.

II. Federal Family and Medical Leave (FMLA)

Due to the size of the District's workforce, District staff are not FMLA-eligible. In the event that District staff become FMLA-eligible, the Board will adopt policy provisions regarding the FMLA.

III. Maternity Leave

A staff member may use accumulated paid sick leave for the period of actual disability attributable to pregnancy or childbirth. This period will extend from the date of birth for a period of not more than 60 days, unless an actual period of disability which begins prior to the date of birth or continues beyond 60 days is otherwise verified in writing by the employee's physician.

If the employee's accumulated sick leave is exhausted during the period of maternity, the district will grant

a leave of absence without pay or fringe benefits, upon the staff member's request, for the remainder of the period of actual disability due to pregnancy or childbirth.

During any unpaid portion of such leave of absence, the staff member may pay the premiums for any district insurance plans to keep coverage in effect for the employee and her family.

1. *Notice*

A pregnant staff member is requested to notify her immediate supervisor and the superintendent or designee by the beginning of the fifth month of pregnancy.

At the time of such notice the staff member will submit a written request to her immediate supervisor and the superintendent or designee for one or more of the following:

- A. Maternity leave for the period of her actual disability due to pregnancy or childbirth;
- B. Family leave for a period of up to 12 weeks, in addition to any period of maternity disability leave.
- C. Leave of absence for a period of up to the beginning of the next school term or school year. Such extended leave of absence may be approved at the discretion of the superintendent or designee based upon consideration of educational program needs and the desires of the staff member, together with the recommendation of her personal physician or licensed practitioner; or
- D. Termination of employment by resignation.

The notice to the district will include the approximate beginning and ending dates for the leave.

2. *Employment conditions*

A pregnant staff member may continue working as long as she is capable of performing her normal duties, with the written approval of her physician or licensed practitioner.

The staff member may return to work when physically able to perform her duties. If the employee intends to return to work within 60 days of childbirth, her personal physician or licensed practitioner must certify that the staff member is in good health and ready to resume her duties.

No later than 30 days after the date of birth, the staff member is requested to notify the superintendent or designee of the specific date when she will return to work. Unless the superintendent or designee approves an earlier date of return, the employee will give at least 14 days advance notice of the actual date of return.

The staff member will return to her duties following an extended leave of absence on the date approved by the superintendent or designee. If the employee is still experiencing a disability due to pregnancy, miscarriage, abortion, childbirth or recovery which prevents the employee from performing her duties on the scheduled date of return, an additional period of unpaid leave of absence may be approved at the discretion of the superintendent or designee based upon consideration of educational program needs and the recommendation of the employee's personal physician or licensed practitioner.

3. *Assignment upon return*

An employee who has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth or up to twelve weeks of family leave will return to the same assignment, or a similar position for which she is qualified with at least the same pay and benefits, as she held prior to the maternity leave or family leave.

Upon return from an extended maternity leave, a staff member will be entitled to a position in the district subject to the availability of a position for which she is qualified. An effort will be made to place the staff member in her original position or in a comparable position.

Legal References: RCW 28A.400.300 Hiring and discharging of employees —
Written leave policies — Seniority and leave benefits of
employees transferring between school districts and other
educational employers
Title 50A RCW Family and Medical Leave
WAC 162-30-020 Pregnancy, childbirth, and pregnancy
related conditions
29 USC Sec 2601 Family and Medical Leave Act of 1993

Management Resources: 2011 - October Issue
2009 - April Issue

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