

## COLCHESTER SCHOOL DISTRICT

### **POLICY: FAMILY/PARENTAL AND MEDICAL LEAVE**

**DATE ADOPTED: May 16, 2006**

### **POLICY STATEMENT**

The Colchester School District provides employees who meet the applicable service requirements, unpaid leave time to take care of family and medical issues consistent with the federal Family and Medical Leave Act (FMLA) and Vermont's Parental and Family Leave Law (VPFL) to "eligible employees."

Subject to the definitions and requirements provided in the FMLA and VPFL, employees may request up to 12 weeks of unpaid, job protected leave during a 12-month period (defined by the District to be a "rolling year", a rolling 12-month period measured by looking back at the 12 months prior to the start date of the employee's requested FMLA/VPFL leave) for the following reasons:

- during the pregnancy and/or to care for the employee's child after birth; or placement of a child with an employee for adoption or foster care; or
- to care for the employee's spouse/civil union partner, child, stepchild, ward who lives with the employee, foster child, parent or parent of the employee's spouse/civil union partner with a serious health condition; or
- for an employee's serious health condition which renders the employee unable to work.

Note: Leave for birth or placement for adoption or foster care must conclude within twelve months of the birth or placement.

For purposes of this policy, a "serious health condition" means an illness, injury, impairment or physical or mental condition that involves either:

- any period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; **or**
- continuing treatment by a health care provider which includes any period of incapacity (e.g., inability to work, attend school or perform other regular daily activities) due to:

#### Legal References:

- 29 U.S.C. §2601 – Family and Medical Leave Act
- 21 V.S.A. §470 – Vermont Parental & Family Leave

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(1) A health condition (including treatment therefor, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that **also** includes:

- treatment two or more times by or under the supervision of a health care provider; **or**
- one treatment by a health care provider with a continuing regimen of treatment; **or**

(2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; **or**

(3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; **or**

(4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; **or**

(5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

### **ELIGIBILITY**

To be eligible for a federal FMLA leave an employee must have worked for the District for:

- at least 12 months; and
- at least 1,250 hours during the 12-month period immediately preceding the beginning of the leave.

To be eligible for a VPFL leave an employee must have worked for the District for:

- at least 12 months; and
- at worked an average of 30 hours a week (1,560 hours) during the 12-month period immediately preceding the beginning of the leave.

### **NOTICE REQUIREMENTS**

If the need is foreseeable, the employees must give reasonable notice (at least 30 days) before the leave is to begin, to the Superintendent. If not foreseeable notice must be given as soon as practical.

Notice will include at least the following information to provide the District with sufficient information to determine whether an employee is qualified for family or medical leave:

- description of the reasons for leave;
- the expected date of leave commencement and the expected date of return to work; and

- appropriate medical certification as defined below.

If the employee does not give the thirty days notice for a foreseeable leave with no reasonable excuse, the District may delay the taking of the leave up to thirty days after the time the employee gave notice. Leave may also be denied until the employee submits medical certification of the need for leave.

### **MEDICAL CERTIFICATION**

Employees are required to provide medical certification from an appropriate health care provider to support a request for leave based on the serious health condition of the employee or the employee's spouse/civil union partner, child, stepchild, foster child, ward who lives with the employee, parent or parent of the employee's spouse/civil union partner.

When leave is foreseeable, employees should provide medical certification to support the leave request before the leave begins. If this is not possible, employees are required to provide the certification within fifteen calendar days of district's request, unless it is not practical under the circumstances.

Failure to provide certification may result in delay or denial of the request for leave. Employees are directed to contact the Superintendent's Office to obtain the required medical certification forms. **Medical certification information should be sent to the Human Resources Department to assure confidentiality.**

A second or third medical opinion, at the District's expense, may be required. Periodic reports of an employee's status may be required during the leave period. Recertification of a serious health condition may be requested.

### **PAID LEAVE**

FMLA and VPFL are unpaid leaves. However, you may be eligible to utilize accrued paid leave time as determined by the FMLA or VPFL laws and governing union agreements, person contract, or handbook, as applicable.

Time off for work related injuries that meet the criteria for a serious health condition will also be treated as family/medical leave time, including times where the employee is receiving Worker's Compensation benefits. FMLA will run concurrently with any lost time covered by Worker's Compensation.

Use of paid leave does not extend the overall unpaid leave time to which the employee is entitled. Such paid leave will be used concurrently with unpaid FMLA/VPFL leave.

### **BENEFITS CONTINUATION**

During an approved FMLA/VPFL all employee insurance benefits will be continued under the same conditions (including employee contributions, if applicable) as if the employee was still at

work. Employees are required to make arrangements to continue to pay their share of premiums while on leave. Failure to make such premium payments may result in cancellation of coverage.

### **JOB RESTORATION**

After the leave ends, the employee will return to their original job, or to an equivalent position, upon completion of the leave with equivalent pay, benefits and other terms and conditions of employment existing on the day the leave began. The district may require a medical certification of fitness prior to returning to work when the absence is caused by the employee's serious health condition. Restoration may be delayed if the employee fails to provide such certification.

An employee on leave does not have greater job protection than if the employee had been continuously employed. For example, employees will not be restored to their original or an equivalent job if their position would have been eliminated for reasons unrelated to the leave, or if the employee had been informed prior to requesting leave that employment would terminate.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly paid "key" employees, after using FMLA leave. Employees who are in this category will be notified of his or her status as a "key employee" in response to the employee's notice of intent to take leave or when leave commences and the employee will be notified of the potential consequences with respect to reinstatement and maintenance of health benefits.

### **INTERMITTENT LEAVE UNDER FMLA**

Under some circumstances, employees may take FMLA leave "intermittently", which means taking leave in separate blocks of time or by reducing the usual number of work hours per work week or hours per work day. Family leave may be taken intermittently or on a reduced schedule only with the approval of the Superintendent. Medical leave may, when medically necessary, be taken intermittently to care for a seriously ill family member, or because the employee is seriously ill and unable to work. If intermittent or reduced schedule leave is used, the employee must give due consideration to potential disruption to his or her department due to his/her absence and the employee may be required to temporarily transfer to an available alternative position of equivalent pay and benefits which better accommodates recurring periods of leave.

### **SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES UNDER FMLA**

The following special rules have been established in order to alleviate disrupting the classroom at a critical point in the academic year. Specifically the rules concern taking leave near the conclusion of an academic term. In the event that a teacher or other instructional employee (e.g. driving instructors, interpreters) leave is:

**More than five (5) weeks before the term's end.** If an eligible teacher or instructional employee begins family or medical leave more than five (5) weeks prior to the end of the

academic term, the school may require the employee to continue taking leave until the end of such term if:

- the leave is of at least three (3) weeks' duration and
- the return to employment would occur during the three-week period during the end of the term.

**Five (5) or fewer weeks before term's end.** If an eligible teacher or instructional employee begins leave during the five (5) weeks before the end of the academic term, the school may require the employee to continue taking leave until the end of such term if:

- the leave is of greater than two (2) weeks duration and
- the return to employment would occur within two (2) weeks of the end of the term.

**Three (3) or fewer weeks before term's end.** If an eligible teacher or instructional employee begins leave under this policy for a purpose other than the teacher's own serious health condition, during the three (3) weeks of the end of the academic term, and the leave will last longer than five (5) days, the school may require the employee to continue taking leave until the end of such term.

### **SHORT TERM FAMILY LEAVE**

The District provides eligible employees with unpaid leave each year to participate in school activities and to attend medical appointments in accordance with Vermont's Parental and Family Leave Law.

Employees may request and may take up to 24 hours of unpaid time off each year during the 12-month period measured from July 1 to June 30. (no more than four (4) hours may be taken during any thirty-day (30) period) under the following circumstances:

- to participate in preschool or school activities directly related to the academic educational advancement of an employee's child, stepchild, foster child or ward who lives with the employee. A parent-teacher conference is an example;
- to attend or to accompany an employee's child, stepchild, foster child or ward who lives with the employee, or to accompany a spouse, or partner in a civil union, parent, parent-in-law or parent of a partner in a civil union to routine medical or dental appointments;
- to accompany the employee's partner in a civil union, spouse, parent, parent of a partner in a civil union, parent-in-law or parent of a partner in a civil union to other appointments for other professional services related to their care and well-being; or
- to respond to a medical emergency involving the employee's or partner in a civil union's child, stepchild, foster child or ward who lives with the employee, or involving a partner in a civil union, spouse, parent, parent-in-law or parent of a partner in a civil union.

Whenever possible, school employees should try to schedule such appointments outside of working hours. Leave must be taken in a minimum of two-hour segments.

**Eligibility:** See above eligibility requirements above for Vermont Parental Family Leave.

**Unpaid or Paid Leave:** Leave is unpaid unless the employee chooses to use accrued vacation or other accrued paid leave available to him/her under District policy.

**Notice Requirements:** Employees must provide the Superintendent with the earliest possible notice, but no later than 24 hours before the leave is to begin, except in the case of an emergency. In the case of an emergency, notice must be given as soon as practicable. An “emergency” means circumstances where the required 7-day notice could have a significant adverse impact on the employee’s family member.