



FEDERAL FAMILY AND MEDICAL LEAVE ACT ADMINISTRATIVE PROCEDURE

The Regional School Unit-24 (RSU) Board (RSUB) is responsible for ensuring each employee request for leave is analyzed to determine whether he/she is eligible under the federal and/or state statute. When an employee is eligible for leave under both the federal and state statutes, the applicable law with regard to each benefit shall be the one which provides the greater benefit, usually Federal Family and Medical Leave Act (FMLA).

The following administrative procedure covers the main provisions of the FMLA. These guidelines in no way attempt to modify the FMLA, which must always be referred to when questions about implementation arise.

Public Law 111-84 expanded coverage to some employees with family members in the Regular Armed Forces (RAF), and are not addressed in this Policy. Please direct questions in this area to the RSU Human Resources Office (HRO)

ELIGIBILITY REQUIREMENTS

To be eligible under the FMLA, employees must work at a site where 50 or more employees of the RSU are employed within 75 miles of that work site. An employee must have been employed by the RSU for at least twelve months and must have worked at least 1250 hours in the previous twelve-month period. According to the law, teachers employed on a full-time basis are presumed to meet the minimum hour requirement.

Under the FMLA, the RSU must grant an eligible employee up to a total of twelve workweeks of unpaid leave during any twelve-month period (July 1st to June 30th) for one or more of the following reasons:

- A. For the birth and care of a newborn child,
- B. For placement with the employee of a son or daughter for adoption or foster care,
- C. To care for a spouse, child or parent with a serious health condition,
- D. To take medical leave when the employee is unable to work because of a serious health condition, or
- E. For qualifying exigencies when an employees spouse, child or parent meets certain RAF conditions.

NOTE: If both spouses work for the RSU, FMLA leave may not be available to both simultaneously. (see HRO)

ADMINISTRATION

- A. If the leave request is due to the employee's serious health condition, the employee is required to provide medical certification stating the date the health condition commenced, the probable duration, the appropriate medical facts concerning the condition, and that the employee cannot perform the functions of his/her job. If the leave request is due to the serious health condition of a family member, the employee is required to provide medical certification stating the date the health condition commenced, the probable duration, the appropriate medical facts concerning the condition, and an estimate of the time the employee will be needed to care for the family member.
- B. RSU employees are entitled to 12 weeks of FMLA leave during the 12 months period, July 1st to June 30th..

- C. An RSU employee must submit an application for FMLA leave at least 30 days in advance when the leave is foreseeable, or as soon as practicable if it is not foreseeable.
- D. If an employee fails to provide 30 days' written notice of foreseeable leave, the leave may be delayed to start 30 days after notice is given, provided that the employee had actual notice of FMLA notification requirements.
- E. Any leave taken for FMLA-qualifying purposes (including leave taken under employment policies, bargaining agreements, or contracts) shall also be applied to an employee's annual FMLA entitlement. When paid leave taken for FMLA-qualifying purposes is exhausted, the balance of FMLA leave shall be unpaid.
- F. Upon an RSU employee's return to work, he/she will be restored to his/her previous position or to an equivalent position with equivalent pay, benefits, conditions and terms of employment.
- G. An RSU employee returning from FMLA leave for his/her own serious health condition will be required to submit medical certification that indicates fitness to return to work and ability to perform the functions of the job.
- H. If an RSU employee is unable to return to work because of his/her own serious health condition at the expiration of allowable FMLA leave, the RSUB may consider a request for extension of unpaid leave and benefits on a case-by-case basis. Any such action will **NOT** be precedence setting.
- I. Failure to return to work upon the expiration of FMLA leave may subject the employee to immediate termination unless such an extension is granted.
- J. An RSU employee who is not eligible for federal FMLA leave may be eligible for Maine FMLA Leave.

Legal Reference: 26 USC § 2601 et seq.
29 CFR Part 825
2010 National Defense Authorization Act - Public Law 111-84, Sec 565

First Reading: June 21, 2011

Adopted: _____