

## **FAMILY AND MEDICAL LEAVE ACT (FMLA) ADMINISTRATIVE PROCEDURE**

NEPN/NSBA CODE: GBN-R1

The following administrative procedure covers the main provisions of the federal Family and Medical Leave Act (FMLA). The guidelines in no way attempt to modify the Act, which should always be referred to when questions about implementation arise. The school unit is responsible for analyzing each employee request for leave to determine whether he/she is eligible under the federal and/or state statute. When an employee 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 FMLA).

### I. Eligibility Requirements

**To be eligible under the FMLA, employees must work at a site where 50 or more employees of the same school board are employed within 75 miles of that work site. An employee must have been employed by the school unit for at least twelve months and 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 hours requirement.**

**Under the FMLA, an eligible employee is entitled to receive up to twelve weeks of leave during a twelve-month period for the following reasons:**

- A. The birth and care of a child;
- B. The adoption or foster placement of a child with the employee;
- C. To care for a spouse, child or parent with a serious health condition; or
- D. The employee is unable to perform the functions of his/her position because of a serious health condition.

### II. 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 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. The twelve-month period in which an employee is entitled to twelve weeks of FMLA leave shall be the calendar year.
- C. An employee must submit an application for leave at least 30 days in advance when the leave is foreseeable, or as soon as practicable if it is not foreseeable.

If an employee fails to provide 30-days' 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.

- D. 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 FMLA entitlement. When paid leave taken for FMLA-qualifying purposes is exhausted, the balance of FMLA leave shall be unpaid.
- E. Upon an 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.
- F. An employee returning from FMLA leave for his/her own serious health condition is required to submit medical certification that indicates fitness to return to work and ability to perform the functions of the job.
- G. If the employee is unable to work because of his/her own serious health condition at the expiration of allowable FMLA leave, the superintendent may consider a request for extension of unpaid leave and benefits on a case-by-case basis. Failure to return to work upon the expiration of FMLA leave may subject the employee to immediate termination unless such an extension is granted.
- H. An employee who is not eligible for federal FMLA leave may be eligible for Maine Family Medical Leave.

Legal Reference: 26 USC § 2601 et seq.  
29 CFR Part 825

Adopted Date: September 21, 1999