

Burlington School District Policy
D 16: Parental, Medical & Family Care Leave Policy

Former Policy GCBDC

An eligible employee may take up to 12 weeks of unpaid leave during a 12-month period relating to the birth or adoption of a child, the serious health condition of the employee, or the care of a seriously ill dependent, consistent with the provisions of the state and federal law and regulations. A summary of the provisions of the federal and state laws is provided below.

I. ELIGIBILITY.

In order to be eligible for leave under this policy, an employee must have been employed for at least one year and have worked at least 1,250 hours during the previous 12-month period.

II. LONG-TERM LEAVE.

Use of Leave: Except as herein limited, an eligible employee may, during any 12-month period, take unpaid leave for a period not to exceed 12 workweeks for one or more of the following reasons:

Parental Leave: An eligible employee shall be entitled to take unpaid parental leave during the employee's pregnancy and within one year following the birth or adoption of a child or the initial placement of a child under 18 years of age with the employee for the purpose of adoption or foster care of a child.

Medical Leave: An eligible employee shall be entitled to take unpaid medical leave if the employee is unable to work because of a serious health condition. An employee shall be entitled to take unpaid family care leave in order to care for an immediate family member with a serious health condition. For purposes of this section, an "immediate family member" shall mean a spouse, domestic partner, son, daughter, stepchild, a ward of the employee who lives in the employee's home, parent, parent-in-law, or other close family member who resides in the employee's home.

For purposes of this section, a "serious health condition" shall mean an illness, injury, impairment, or condition that includes any period of incapacity connected with an in patient hospital stay or any period of incapacity involving "continuing treatment by a health care provider" as that phrase is defined in federal regulations [29 C.F.R. §825.114].

For purposes of this section, a 12-month period shall mean a period of 12 consecutive months following the date of an employee's first use of this leave policy. Only one 12-week leave during each 12-month period is provided under the law, even if more than one qualifying event has occurred. Additional leave beyond the 12-week period may be taken only with the permission of the Superintendent or designee.

Parental leave may be taken intermittently or on a reduced schedule only with the approval of the Superintendent or designee. Medical leave may, when medically necessary, be taken intermittently or by reducing the normal weekly or daily work schedule. 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 or 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.

Notice from employee and certification from physician.

An employee must provide reasonable notice to his or her Superintendent or designee of intent to take leave under this policy. In the case of parental leave, reasonable notice shall mean notice at least six weeks prior to the leave. In the case of medical leave, an employee must give at least 30 days prior notice of a leave, which is foreseeable. In cases of emergency, the employee shall notify the Superintendent or designee as soon as practicable. All notices must include the date the leave is expected to commence and the estimated duration of the leave. A form shall be available from the Superintendent's Office for this purpose.

An employee shall provide certification from the attending health care provider for the employee or the employee's immediate family member supporting the need for medical leave and the estimated duration of the leave. The District may require that additional certification from the attending health care provider be supplied to the District to confirm the need for the leave. The District may require that the employee submit to a further examination to confirm the medical need for the leave under this policy.

After receipt of the notice from the employee and information from the treating physician, the District shall promptly confirm in writing with the employee whether the requirements for leave under this section have been met and whether the leave taken by the employee shall be counted toward the 12-week period provided by this section, as well as other conditions of the leave.

Use of accrued paid leave.

If the employee chooses, the employee may use up to six weeks of available accrued paid leave time, including, but not limited to, sick, vacation and personal leave, during a Medical and Family Care leave. The use of accrued vacation leave shall not extend the Vermont 12-week leave period.

Continuation of employee benefits.

Unless benefits are reduced for similarly situated employees, an employee shall continue to receive employment benefits while on Medical and Family Care leave at the same level and under the same conditions as if continuously employed, including medical, dental and life, and the District will continue to pay its share of these benefits. However, the employee shall be responsible for the payment of the employee's contribution for these benefits during the leave period. Should the employee elect not to return to work after the expiration of the leave period, the employee shall pay the District the cost of the insurance coverages during the leave period.

Return to Work.

An employee who wishes to return to work prior to the originally scheduled date shall give reasonable notice of his or her intent to return to work.

An employee returning to work after a medical leave may be required to provide certification from the health care provider that he or she is able to perform all the essential functions of his or her employment. Consistent with other existing policies or contracts, the District may require that the employee complete a return to work examination with the District's medical examiner or other health care provider designated by the District.

An employee who fails to return to employment at the end of the leave period and who has not been granted a leave extension by the District will be subject to disciplinary action including termination.

All qualified returning employees shall be entitled to return to the same position or a position of like seniority, status and pay, unless the following circumstances exist:

Prior to requesting leave the District had given notice or received notice from the employee that the employment would terminate;

The District can demonstrate by clear and convincing evidence that during the period of leave, the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the employee's underlying condition; or

The employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to the District to present substantial and grievous economic injury to the District's operations.

Special Rules for Instructional Employees.

Special Rules apply to "Instructional Employees" regarding the taking of intermittent leave, leave on a reduced leave schedule or leave near the end of the academic term. An "Instructional Employee" is defined as an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, driving instructors, and special education assistants. "Instructional Employees" do not include teacher's assistants; aides; cafeteria workers; maintenance workers or bus drivers; auxiliary personnel, such as counselors, psychologists or curriculum specialists; and all others who do not have as their principle job actual teaching or instruction.

If an Instructional Employee is on FMLA/VPFLA leave at the end of the spring semester, the time during the summer vacation which the employee would not normally work shall not count towards the 12 week leave.

Interim Leave or Reduced Leave Schedule.

If an Instructional Employee needs intermittent or reduced leave to care for a family member or his or her own serious health condition that is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20% of the working days during the leave period, then the District may require the Instructional Employee to choose between the following:

Take leave for a period no greater than the duration of the planned treatment; or

Transfer temporarily to an available alternative position which has equivalent pay and benefits for which the employee is qualified and which better accommodates the needed leave than does the employee's regular position.

If an Instructional Employee fails to provide notice of the need for leave, the District may choose between a. or b. above or may require the employee to delay taking the leave.

Taking Leave Near the End of an Academic Term.

If an Instructional Employee begins his/her leave more than five weeks prior to the end of the academic term, i.e., semester, the District may require the employee to continue his or her leave to the end of academic term if the leave will last at least three weeks and the employee's return would occur during the last three weeks before the end of the academic term.

If an Instructional Employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks at the end of the academic term, the District may require the Instructional Employee to continue the leave until the end of the academic term if the leave will last more than two weeks and if the employee would return during the last two weeks of the term.

If the employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of an academic term and the leave will last more than five working days, then the District may require the employee to continue taking leave until the end of the term.

In cases where an Instructional Employee is required to take leave until the end of the term as described above, only that time period which the employee needs for leave shall be counted towards his/her FMLA leave and not the time period which the District requires the employee to be absent.

This does not effect the District's obligation to continue health insurance benefits or restore the employee to an equivalent position and other benefits at the conclusion of the leave.

SHORT-TERM FAMILY LEAVE.

In addition to the leave provided in section II above, an employee shall be entitled to take leave not to exceed four hours in any 30-day period and not to exceed 24 hours in any 12-month period. The leave must be taken in a minimum of two-hour segments and may be taken for any of the following purposes:

To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child or ward who lives with the employee, such as a parent-teacher conference.

To attend or to accompany the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse or parent-in-law to routine medical or dental appointments.

To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being.

To respond to a medical emergency involving the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse or parent-in-law.

An employee shall make a reasonable attempt to schedule appointments for which leave may be taken under this section outside of regular work hours. In order to take leave under this section, an employee shall provide the District with the earliest possible notice, but in no case later than seven days, before leave is to be taken except in the case of an emergency. In this subsection "emergency" means circumstances where the required seven day notice could have a significant adverse impact on the family member of the employee.

The employee may choose to take this leave as unpaid or to use accrued paid leave, including vacation and personal leave.

Sources:

21 V.S.A. §470-474, Vermont Parental & Family Leave Act; 29 U.S.C. §2601-2654, Family and Medical Leave Act.

Policy review & updates:

November 11, 2997	First reading
April 14, 1998	Second reading & adoption
September 9, 1999	Reviewed
February 13, 2007	First Reading
March 20, 2007	Second reading & adoption

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