

## Raymond School District Policy - GCCBC

### Family and Medical Leave Act

Employees may be entitled to family and medical leave under the federal Family and Medical Leave Act of 1993 (“FMLA”) and/or under **NH RSA 189:73** when they meet all of the eligibility requirements of these laws. This policy sets forth several rules that must be applied uniformly to all employees who may be eligible for family and medical leave. This policy is not intended to expand the District’s obligations beyond the requirements of the FMLA and/or **NH RSA 189:73**. As used in this policy, “family and medical leave” means leave available under either or both the federal and state laws.

#### **1. Employee Eligibility under the Federal FMLA**

Employees are eligible for the federal FMLA if they have been employed by the District for at least 12 months, have worked at least 1,250 hours in the 12 months immediately preceding the requested leave, and are employed at a worksite where the District employs at least 50 employees within a 75-mile radius.

#### **2. Employee Eligibility and Leave under **NH RSA 189:73****

Employees are eligible for family and medical leave under **NH RSA 189:73** if they have been employed by the District for at least 12 months and have worked at least 900 hours in the 12 months immediately preceding the requested leave. Employees who meet **NH RSA 189:73**’s eligibility criteria will be provided with family and medical leave under the same terms and conditions as leave provided to employees eligible for leave under the federal FMLA. As permitted by law, family and medical leave under **NH RSA 189:73** will be used concurrently with leave provided under the federal FMLA.

#### **3. FMLA Eligibility Periods**

There are two types of eligibility periods under the federal FMLA as described below.

##### **a. 12-Month Period for Birth, Adoption, or Foster Care; Serious Health Condition Purposes; Qualifying Exigency**

Eligible employees may use up to twelve (12) weeks of unpaid family and medical leave during a 12-month period for the following qualifying reasons:

1. Birth and care of the newborn child of the employee;
2. Placement with the employee of a son or daughter for adoption or foster care;
3. Care for an immediate family member (spouse, child, or parent) with a serious health condition;
4. Medical leave when the employee is unable to perform the essential functions of their job because of their own serious health condition;
5. Qualifying exigency leave for an employee whose spouse, child, or parent is a regular member of the Armed Forces on covered active duty deployed to a foreign country or a reserve member of the Armed Forces (including National Guard) on covered active duty deployed to a foreign country under a call or order to active duty in a contingency operation.

The 12-month period used to determine employee eligibility for family and medical leave for the purposes described above shall be a rolling 12-month period measured backward from the date of the employee's request for leave

#### **b. 12-Month Period for Military Caregiver Leave**

Eligible employees may use up to 26 weeks of unpaid family and medical leave during a single 12-month period to care for a spouse, child, parent, or next of kin of an eligible service member or veteran with a serious injury or illness. The 12-month period for military caregiver leave is calculated separately from the 12-month period for family and medical leave taken for other qualifying reasons (as outlined above in Section 3(a)). The 12-month period for military caregiver leave is calculated from the first day that the leave is taken for this purpose. Any military caregiver leave that is not taken within this specific 12-month period is forfeited.

The military caregiver 12-month leave period may overlap with the District's regularly designated family and medical leave period and, in certain circumstances, may impact the employee's eligibility to take family and medical leave for other qualifying reasons.

#### **4. Limitations on FMLA Leave**

Leave may be taken for childbirth, adoption, or foster care placement of a child only within twelve (12) months of that childbirth, adoption, or placement. The District may require that such family and medical leave be taken on a full-time basis. Leave for serious health conditions, either of a family member or the employee, may be taken intermittently or a reduced schedule if medically necessary. The minimum time for family and medical leave taken on an intermittent basis is one (1) hour per work day.

#### **5. Special Rules for Instructional Employees**

Instructional employees are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

- (a) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the District may require the employee to choose either to:
  - (1) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
  - (2) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.
- (b) If an eligible instructional employee needs leave at the end of the academic term, the District may require the employee to remain on leave until the end of the term if:
  - (1) The employee wishes to begin leave (for any FMLA purpose) more than five weeks before the end of the term and to return during the last three weeks of the term;
  - (2) The employee wishes to begin leave (for any FMLA purpose except the employee's own serious health condition or a qualifying exigency arising from active duty)

during the last five weeks of the term and to return during the last two weeks of the term; or

- (3) The employee wishes to begin leave (for any FMLA purpose except the employee's own serious health condition or a qualifying exigency arising from active duty) during the last three weeks of the term and to take leave of more than five working days.

## **6. Notice by Employee**

Employees requesting leave shall provide at least 30 days' notice to the District whenever the need for such leave is foreseeable. If the employee is unable to provide thirty (30) days' notice for either foreseeable or unforeseeable leave, then the employee must provide such notice as is practicable. Upon request by the District, the employee shall provide appropriate supporting medical certification (or other certification appropriate to the particular request).

When the District has reason to believe that an employee is or will be absent for an FMLA-qualifying purpose, the District may request the appropriate information from the employee to determine the employee's eligibility for family and medical leave.

## **7. Coordination with Other Leave**

When leave is taken that qualifies both as protected family and medical leave (under the FMLA and/or NH RSA 189:73) and as permitted leave under any employment contract, collective bargaining agreement, or District policy, the employee shall use family and medical leave and the other type of leave concurrently, provided that the employee meets all of the eligibility requirements for each type of leave and as permitted by law. Types of leave that shall run concurrently with family and medical leave include, but are not necessarily limited to: accrued sick leave, vacation, personal leave; unpaid leave; disability leave; leave provided for absences caused related to work-related injuries; and, any other applicable types of leave

## **8. Fitness for Duty Certificate**

Before an employee returns to work from family and medical leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider indicating that the employee is able to return to work and perform all of the essential functions of his or her position.

## **9. Employment and Benefits Protection**

Except as permitted by law, at the end of an authorized family and medical leave, an employee will be reinstated to their former position or to a position equivalent in pay, benefits, and other terms and conditions of employment. **The Superintendent, or his/her designee, may reassign an employee to a different grade level, building, or other assignment (consistent with the employee's certification for professional staff.)**

Employees who take protected family and medical leave will not lose any previously accrued seniority or employment benefits. However, such benefits will not continue to accrue during the employee's family and medical leave.

During family and medical leave, the District will maintain the employee's health insurance benefits under the same terms and conditions applicable to employees not on leave. If family and medical leave is paid through the use of accrued leave time, the District will deduct the employee's portion of the health plan premium as a regular payroll deduction. If family and medical leave is unpaid or paid through benefits not provided through

the District's payroll system (e.g., workers' compensation or disability benefits), the employee must contact the District to make arrangements to pay their portion of the health plan premium. Failure to make such arrangements and pay the employee-portion of the premium costs during family and medical leave may jeopardize an employee's entitlement to continuation of coverage.

*Statutory Reference:*

*Title 29 § 2601 et seq.*

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