

POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 1 of 7
Family Leave

3431.1 FAMILY LEAVE

The Board of Education will grant eligible employees family and/or medical leave in accordance with the federal Family and Medical Leave Act ("FMLA") and the New Jersey Family Leave Act ("NJFLA" or "State Act").

An employee shall not be discriminated against for having exercised his or her rights under the FMLA or NJFLA nor discouraged from the use of family/medical leave.

Definitions

"Eligible employee," for purposes of leave under the FMLA, is an employee who has worked twelve months for the Board and for at least 1250 hours during the twelve-month period preceding the leave. An employee becomes eligible for leave under the State Act after having worked twelve months for the Board and for at least 1000 hours during the twelve-month period preceding the leave.

"Intermittent leave" means non-consecutive leave taken in blocks of time, each of which may not be less than a week if the employee is entitled to leave under the State Act only.

"Reduced leave schedule" means a leave schedule that reduces the employee's usual number of hours per workweek or, for employees entitled to leave under the FMLA, per workday.

"Serious health condition" is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider.

A "week" is the number of days an employee normally works each calendar week.

Qualifying Reasons for and Term of Leave

FMLA - An employee eligible under the FMLA shall be entitled to a total of twelve weeks or unpaid leave during a twelve-month period for one or more of the following reasons:



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 2 of 7
Family Leave

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a child for adoption or foster care;
3. To care for a family member (meaning the employee's spouse, child, or parent) with a serious health condition; or
4. Because of a serious health condition that makes the employee unable to perform the functions of his/her position.

NJFLA - An employee eligible under the State Act shall be entitled to a total of twelve weeks of unpaid leave during a twenty-four-month period in order to provide care made necessary because of:

1. The birth of a child of the employee;
2. The placement for adoption of a child with the employee; or
3. The serious health condition of a family member (meaning the employee's spouse, child, parent, or parent in-law).

The twenty-four-month period in which the leave entitlement occurs is measured forward from the date on which the employee first takes leave under the State Act. The Board will use the same method for determining leave entitlement under the FMLA. Accordingly, the twelve-month period will be measured forward from the employee's first use of leave under that law.

Leave for the birth or placement of a child must begin within one year after the birth or placement and, if the leave is available under the FMLA only, must be concluded within this one-year period.



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 3 of 7
Family Leave

Intermittent and Reduced Leave

Family/medical leave may be taken intermittently when medically necessary or on a reduced leave schedule provided the purpose of the leave is to care for a family member with a serious health condition or, where leave is available to the employee under the FMLA, because of the employee's serious health condition.

An eligible employee who requests intermittent or reduced leave must make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional program and other operations of the Board. The Board may temporarily transfer an employee to an alternative, equivalent position if the employee is entitled to leave under the FMLA only and the leave is taken for planned medical treatment.

When entitled to leave under the State Act only, the employee may take no more than one leave on a reduced leave schedule within any consecutive twenty-four-month period and, without Board approval, may not take reduced leave in an increment of less than one workday, and the total time within which intermittent leave is taken in connection with a single serious health condition may not exceed a twelve-month period.

Intermittent leave and reduced leave for birth or placement of a child may not be taken unless otherwise agreed to by the Board. Absent extraordinary circumstances, the Board will not agree to the use of intermittent or reduced leave for birth or placement purposes whenever a substitute for the employee is not readily available or the employee's absence will disrupt a student's educational program or other district operations.

Leave Covered by Both Laws and Relationship to Other Leaves

If an eligible employee is entitled to leave under both laws, the Board will provide the family leave benefit that is most generous to the employee, and the leave used will count against the employee's entitlement under both laws. Once the employee exhausts any leave available under one law, the applicable provisions of the other law will apply for the remainder of the leave.



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 4 of 7
Family Leave

If an employee entitled to family/medical leave under the FMLA or NJFLA, or both, takes paid leave or is granted unpaid leave pursuant to another Board policy, the leave used will also count against the employee's entitlement under the applicable law(s). In other words, family/medical leave runs concurrently with other types of leave, including without limitation, sick leave, vacation time, personal leave, workers' compensation or other disability leave, and extended unpaid leave.

In addition, if an employee takes leave under the FMLA or NJFLA, or both, for a reason that would also entitle him to use his/her accrued paid leave, the paid leave will be drawn upon during the statutory leave in order to enable the employee to continue receiving salary until the paid leave is exhausted. In accordance with the preceding paragraph, however, this substitution of paid leave will not serve to extend the amount of leave available under either statute.

Notice

An employee eligible for family leave must give reasonable advance notice in writing to the Superintendent, except where emergent circumstances warrant shorter notice. The notice should indicate that a leave is sought under the FMLA or NJFLA, or both, and must contain sufficient information to make the Superintendent aware that the employee needs a leave that qualifies under the FMLA and/or NJFLA, and the anticipated timing and duration of the leave. When emergent circumstances make written notice impracticable, the employee may give oral notice to the Superintendent, but any oral notice must be followed by written notice delivered as soon as practicable.

Amount of Notice

1. Notice for leave to be taken for the birth or placement of a child shall be given at least thirty days prior to the commencement of the leave, except that if the date of the birth or placement requires leave to begin in less than thirty days, the employee must give notice as soon as practicable.



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 5 of 7
Family Leave

2. Notice for leave to be taken for the serious medical condition of a family member shall be given at least fifteen days prior to the commencement of leave, except that if the date of the medical treatment or supervision requires leave to begin in less than fifteen days, the employee must give notice as soon as practicable.

Benefits

Family leave shall be unpaid leave.

In accordance with law, the Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the employee had not been absent on family leave. An employee who fails to return to duty at the expiration of the leave shall reimburse the Board for the cost of maintaining this coverage unless the employee's failure to return is due to the serious health condition precipitating the need for the leave, in which case the employee shall submit a supporting certification of the health care provider, or other circumstances beyond the employee's control.

An employee returning from family leave shall be restored to the position he or she held when the leave commenced or to an equivalent position, except that an employee has no right to reinstatement if his/her position would have been lost as a result of a reduction in force, had the employee not been on leave, or his/her employment contract would not have been renewed for reasons unrelated to the employee's exercise of rights under the FMLA or NJFLA. Thus, a non-tenured teaching staff member or other probationary employee who takes leave near the end of the probationary period shall be considered for renewal of employment as though he/she had not taken a leave of absence and shall not be denied renewal on the basis of having taken family leave. Certainly highly paid employees whose restoration would result in substantial and grievous economic injury to the district may also be denied restoration.



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 6 of 7
Family Leave

The employee's tenure and seniority rights, if any, and other benefits accrued before the leave began shall be restored upon return. During the leave, the employee shall accrue no additional time toward tenure acquisition or seniority and, in accordance with existing policy, no additional benefits such as, but not limited to, vacation leave, sick days, personal days and credit for salary advancement.

The return of an employee prior to the scheduled expiration of family leave shall not be permitted if the early return does not cause the Board to incur undue hardship or expense. The employee shall provide reasonable notice to the Superintendent of the changed circumstances and ability to return to duty.

Verification of Leave

An employee's request for leave on account of a serious health condition shall be supported by the certification of the health care provider. The Superintendent, however, may waive this requirement when the requested leave is to be used on a consecutive basis only and the period of the leave does not exceed four consecutive workdays.

The certification shall contain the date on which the condition commenced, its probable duration, the medical facts within the provider's knowledge regarding the condition, and when the leave is due to the employee's condition, a statement that the employee is unable to perform the functions of his/her position. The provider's certification shall not be required for leave on account of birth or adoption provided the leave qualifies under the FMLA only; otherwise, the provider's certification shall contain the projected date of birth or placement.

In the event the Board has reason to doubt the validity of the certification, the employee shall obtain the opinion of a second health care provider approved by the Board, which shall be at Board expense if the leave qualifies under the FMLA. If the certification and opinion disagree, the employee shall, at Board expense, obtain an opinion from a third health care provider approved by both the employee and the Board. The opinion of the third health care provider shall be final and binding.



POLICY

BOARD OF EDUCATION
MORRIS-UNION
JOINTURE COMMISSION

TEACHING STAFF MEMBERS
3431.1/Page 7 of 7
Family Leave

Under certain circumstances, the Board may require periodic recertifications on a reasonable basis. In addition, the Board may require an employee whose leave was occasioned by his/her serious health condition to present a certification from the employee's health care provider that the employee is able to resume work.

Other Employment

An employee on family leave may not engage in other full-time employment unless the employment began before the leave commenced. Nor may the employee increase the number of hours of any part-time employment in which he/she engaged before the leave commenced. If the employee becomes employed part-time after the leave commences, such employment may not exceed half of the employee's regularly scheduled hours for the Board.

In order that an employee's entitlement to family leave can be properly determined, the Superintendent shall insure the keeping of accurate attendance records that distinguish family leave from other kinds of leave.

29 U.S.C. 2601 et seq.
29 C.F.R. 825.200 et seq.
N.J.S.A. 34:11B-1 et seq.
N.J.A.C. 13:14-1.1 to 1.16.

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