

Regulation GBRIG-R(1): Federal Family and Medical Leave Act

Status: ADOPTED

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I. Definitions

1. **Short-Term Medical Leave:** Short-term medical leave is defined as an absence from duty for six (6) consecutive working days or less. A doctor's certificate may be required by a principal or supervisor at any time that they deem it appropriate, but will always be required for an absence of more than six (6) consecutive days. Likewise, a doctor's certificate may be required for any days of medical leave granted on a day designated as critical by the District.
2. **Family and Medical Leave Act ("FMLA") Leave:** FMLA Leave is defined as an absence from duty for more than six (6) consecutive or intermittent working days that occurs as a result of the qualifying reasons provided in Section C of Policy GBRIG and federal law. If an employee is eligible for FMLA Leave, the District will provide an employee with up to sixty (60) days of unpaid, job-protected leave. Any paid leave available to the employee will run concurrently (at the same time) as FMLA Leave. When an employee returns from FMLA Leave, the employee will be restored to the same job or to an equivalent position. Any job protection afforded to an employee on FMLA Leave expires after 60 days of FMLA Leave.
3. **Approved Extended Leave ("AEL"):** Employees ineligible for FMLA Leave or unable to return to work after the 60th day of approved FMLA Leave due to the employee's own serious health condition, or a serious health condition of the employee's spouse, son, daughter, or parent, may qualify for Approved Extended Leave (AEL).

II. FMLA Leave Requested by Employee

- a. Employees who are absent for more than six (6) consecutive days or anticipate that they will be absent for more than six (6) consecutive or intermittent working days for either the employee's serious health condition, or the serious health condition of the employee's spouse, son, daughter, or parent, should complete the appropriate U.S. Department of Labor form. The necessary form may be obtained from the Human Resources Department and will include a Certification of Health Care Provider form (WH-380). Please note: FMLA Leave will not be granted without the WH-380 form completed by a physician with an estimated return-to-work date. See GBRIG-E(1), a Certification of Health Care Provider form (WH-380).

Duration of Leave: When an employee is eligible for FMLA Leave, the FMLA Leave will have a specific beginning and ending date, not to exceed sixty (60) workdays or 12 weeks, calculated in a rolling year as defined in Policy GBRIG, Section C.

- a. In calculating the amount of leave used by an employee, the fact that a holiday or school closure for inclement weather may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday or closure for inclement weather will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday or closure. When the District is closed and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation), the days the District is closed do not count against the employee's FMLA leave entitlement.

- b. An employee who is granted FMLA Leave and is out of work no more than 60 days, will be entitled to

return to active employment upon the completion of the District's certification form, or Fitness for Duty Form, permitting the employee to return to work. See GBRIG-E(2), Fitness for Duty form. This form includes a statement from the employee's physician that the employee can perform the essential functions of the employee's job. Human Resources may also direct an employee to submit a copy of the employee's job description to the employee's physician for review. Requests for accommodations upon a return to work are addressed in Section VI below.

c. Any paid leave available to an employee will run concurrently (at the same time) as the employee's FMLA Leave. If an employee runs out of paid leave while on FMLA Leave, then the FMLA Leave becomes unpaid (or leave without pay). The employee retains the right to be restored to the same job or to an equivalent position while on FMLA Leave.

d. At the expiration of FMLA leave, if the employee fails to get certified to return to work and/or otherwise fails to return to work, the employee's job is no longer required to be protected. In such cases, a properly certified (when applicable) or qualified person may be employed in the employee's position. If not eligible for other qualifying leave as set forth below, classified employees may be terminated and certified employees may or may not be recommended for contract renewal. Any employee terminated under this paragraph may apply and be considered for any vacant position for which they are qualified for when the employee is released to return to work by their physician.

e. Unauthorized absences not covered by FMLA will be addressed as set out in Policy GARH and Regulation GARH-R(1).

III. Approved Extended Leave (AEL)

a. Employees who are not eligible for FMLA Leave, or who have exhausted FMLA Leave, may apply for AEL. AEL is a privilege, not a right, that the District may extend to an employee that is unable to perform their duties because of the employee's serious medical condition, or the serious health condition of the employee's spouse, son, daughter, or parent, and is not eligible for FMLA Leave or ADA leave as set out below. An employee requesting AEL will be required to have their physician complete a District approved medical certification form. .

b. AEL is leave without pay, unless the employee has accrued any paid leave to cover their absence. An employee on AEL will be allowed to continue benefits as set forth in this section.

c. To continue to qualify for AEL, the employee will be required to provide updated medical certification to the FMLA Administrator. AEL may be permitted for up to 45 days. While on AEL, employees are required to obtain a monthly recertification from the employee's physician. If an employee on AEL is not able to return to work after 45 days, then the District may move to terminate the employee, and the employee's benefits will be canceled.

d. With the appropriate medical documentation, AEL will enable an employee to continue their benefits for up to 45 days. Employees on AEL, or leave without pay, will be responsible for paying the employee's portion of their benefits, including health benefits. Medical documentation must be kept current while an employee is on AEL. Contact the Benefits Office for more details. Failure to remit timely premiums will result in immediate loss of coverage.

e. Employees on AEL do not have the return-to-work rights that are required with FMLA Leave. If an absence extends beyond the 60-day FMLA Leave maximum for each FMLA 12-month period, the position may be posted, and an employee may be replaced by a permanent employee. An employee on AEL may apply for a vacant position upon the employee's physician releasing the employee to return to work.

f. Employees that do not qualify for FMLA, have exhausted FMLA Leave, fail to apply and qualify for AEL, or fail to apply and qualify for ADA leave as an accommodation are on unapproved leave status. Employees on unapproved leave may lose their benefits and be subject to termination.

VI. Fitness for Duty

a. If, in the opinion of the Superintendent, an employee is physically or mentally unable to properly perform the essential functions of their job, the employee will be directed to obtain a medical examination and have the physician complete a Fitness for Duty form. See GBRIG-E(2), Fitness for Duty form. The Superintendent may also require that the employee apply for FMLA Leave or AEL or work with Human Resources to determine whether a reasonable accommodation is necessary to allow the employee to perform essential job duties, as appropriate.

V. Breastfeeding in the workplace

a. Employees who are breastfeeding shall be provided a reasonable amount of break time and space to express milk as frequently as needed by the nursing mother, for up to one year following the birth of the employee's child. All steps should be made to align the schedule breaks to avoid instructional time when possible. The space provided cannot be a bathroom, but a clean space that is shielded from view and free from intrusion by coworkers or the public.

VI. ADA Request for Accommodations

a. Employees are expected to perform the essential duties of their job. If a qualified employee has a disability that may require an accommodation under the Americans with Disabilities Act (ADA), the employee is required to complete the Employee Request for Reasonable Accommodation form. See GBRIG-E(3). The employee is also required to have their physician complete the ADA Accommodations/Request for Medical Certification Form. See GBRIG-E(4). Employees can obtain a copy of this form from the FMLA Specialist in the Human Resources Department. This form must be signed by the employee's physician and include detailed information on any requested restrictions, accommodations, or medical support. Employees are to submit the completed form to the FMLA Administrator.

b. The FMLA Administrator will coordinate a meeting with the employee requesting the accommodation, appropriate Human Resources personnel, and the employee's supervisor. The purpose of this meeting is to review the nature of the employee's disability, discuss limitations that may affect the employee's ability to perform their essential job duties, and consider potential reasonable accommodations that would not impose an undue hardship on District operation while allowing the employee to perform the essential job functions. Following the interactive process, the employee will receive written notification from the Human Resources Department regarding the status of the employee's accommodation request.

c. If a reasonable accommodation cannot be made without causing undue hardship, the employee may be placed on ADA leave (for a period to be decided on a case-by-case basis) as a means of reasonable accommodation.
