

## FEDERALLY-MANDATED FAMILY AND MEDICAL LEAVE

This policy shall apply to all family and medical leaves of absence covered under the Family and Medical Leave Act of 1993 (FMLA). Terms used in this policy and its accompanying regulation, such as “serious health condition,” “qualifying exigency,” “covered active duty,” “covered service member,” and “serious injury or illness” shall be as defined by the FMLA and its implementing regulations.

### Eligibility

To be eligible for a family and medical leave of absence (FMLA leave) under this policy, an employee shall have been employed for at least 12 months and shall have worked at least 1,250 hours during the 12-month period preceding the commencement of leave. A full-time classroom teacher shall be deemed to meet the hourly requirement but must also meet the 12-month requirement to be eligible for family leave.

### Permitted Reasons for FMLA Leave

An eligible employee shall be entitled to a combined total of 12 weeks of leave per year for the following reasons:

1. The birth and care of the employee’s newborn child;
2. The placement of a child with the employee for adoption or foster care;
3. To care for the employee’s child, spouse, or parent with a serious health condition;
4. When the employee is unable to perform the essential functions of his/her position because of the employee’s own serious health condition; or
5. Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter or parent is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty in the Armed Forces.

Spouses who are both employed by Centennial BOCES shall be entitled to a total of 12 weeks of leave (rather than 12 weeks each) per year for reasons (1), (2), (3) and/or (5) specified in the immediately preceding paragraph.

Entitlement for child care leave shall end after the child reaches age one or 12 months after adoption or foster placement. Leave to care for a child shall include leave for a step-parent or person in *loco parentis*.

An eligible employee who is a spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness incurred or aggravated in the line of duty on active duty shall be entitled to a total of 26 weeks of leave during a single 12-month period to care for the covered service member.

The single 12-month period shall begin on the first day the employee takes leave for this reason and shall end 12 months later. During that 12-month period, the eligible employee is entitled to a combined total of 26 weeks of leave under this policy. Only 12 weeks of the 26 week total may be for a FMLA-qualifying reason other than to care for a covered service member.

Spouses who are both employed by Centennial BOCES shall be entitled to a total of 26 weeks (rather than 26 weeks each) in a single 12-month period if the leave is to care for a covered service member with a serious injury or illness, or a combination of caring for a covered service member and reasons (1), (2), (3) and/or (5) above.

### Intermittent or Reduced FMLA Leave

Leave may be taken on an intermittent or reduced leave schedule. Centennial BOCES may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule provided that the position has equivalent pay and benefits. Teachers

requesting intermittent or reduced leave involving greater than 20 percent of their working time during such period may, in the alternative, be required to take leave continuously for all or a specified part of the total period involved.

Intermittent leave or leave on a reduced schedule shall not be allowed because of the birth of an employee's child and to care for a newborn child, or because of the placement of a child with an employee for adoption or foster care.

### **Health Insurance and Benefits**

Centennial BOCES shall maintain coverage under any group health insurance plan for any employee who is granted an approved leave of absence under this policy for the duration of the leave. Such coverage shall be maintained at the same level and under the same conditions as coverage would have been provided if the employee were not on leave. Centennial BOCES reserves the right to seek reimbursement for this benefit in the event that an employee elects not to return to work, as allowed by law.

The use of FMLA leave shall not result in the loss of any employment benefit that accrued prior to the start of the FMLA leave.

### **Reinstatement after FMLA Leave**

Reinstatement shall be determined in accordance with any applicable law Board policies. If the employee on leave is a salaried employee and is among the highest paid 10 percent of employees, and keeping the job open for the employee would result in substantial economic injury to Centennial BOCES, the employee may be denied reinstatement provided Centennial BOCES notifies the employee of its intent to deny reinstatement at the time economic hardship occurs, and the employee elects not to return to work after receiving the notice.

Centennial BOCES shall fully comply with the FMLA and shall be entitled to take all actions and exercise all options authorized under the FMLA consistent with this policy and its accompanying regulation. In the event that this policy or its accompanying regulation conflict or are otherwise inconsistent with mandatory provisions of the FMLA, the mandatory provisions of the FMLA shall control.

LEGAL REFS.:           29 U.S.C. 2601 *et seq.* Family and Medical Leave Act 29 C.F.R.  
Part 825 regulations

CROSS REFS.:           GBGE, Staff Maternity/Paternity/Parental Leave  
                              GBGG, Staff Sick Leave GBGK,  
                              Staff Legal Leave

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### **Notification and Reporting**

When the need for leave for a family and medical leave of absence (FMLA leave) is foreseeable, the employee shall provide at least 30 days prior notice to Centennial BOCES, unless circumstances dictate otherwise. If the requested FMLA leave is because of a military-related qualifying exigency and the leave is foreseeable, the employee shall provide notice to Centennial BOCES as is reasonable and practicable. With respect to foreseeable treatments, the employee shall make a reasonable effort to schedule treatment so as not to disrupt Centennial BOCES operations.

If the need for FMLA leave is unforeseeable, the employee shall provide notice to Centennial BOCES as soon as practicable under the circumstances.

If an employee's requested FMLA leave also constitutes paid leave under another Board policy, the FMLA leave and other applicable leave shall run concurrently.

In the absence of an employee's request for FMLA leave, Centennial BOCES may independently determine whether an employee's leave under another Board policy constitutes FMLA leave and, if so, shall notify the employee that the leave will be counted against the FMLA leave to which the employee is entitled

If the FMLA is due to illness, the employee shall report periodically on his/her leave status and intention to return to work.

If the requested FMLA leave is because of a military-related qualifying exigency, Centennial BOCES may require the employee to provide supporting documentation of such exigency.

Centennial BOCES may also require the employee to show certification of the familial relationship if the request for FMLA leave is to care for a family member with a serious health condition, to care for a covered service member with a serious injury or illness, or in connection with a military-related qualifying exigency.

### **Medical Certification**

Centennial BOCES shall require medical certification to support a claim for leave for an employee's own serious health condition; to care for the employee's child, spouse, or parent with a serious health condition; or to care for a covered service member's serious injury or illness. The medical certification will be sufficient if it contains the date on which the condition or injury/illness commenced, the probable duration of the condition or injury/illness, and any appropriate medical information.

For an employee's own serious health condition, the medical certification also must include a statement that the employee is unable to perform the functions of his/her position. For leave to care for a child, spouse, or parent with a serious health condition or to care for a covered service member with a serious injury or illness, the medical certification must include an estimate of the amount of time the employee is needed to provide care.

In its discretion and in accordance with the FMLA, Centennial BOCES may require a second or third medical opinion and periodic re-certifications as Centennial BOCES deems reasonably necessary.

Medical certification for intermittent leave must indicate the dates on which treatment is expected to be given and the duration of the treatment. For leave to care for a child, spouse, or parent with a serious health condition or to care for a covered service member with a serious injury or illness, the medical certification

must include a statement that the employee's intermittent leave is necessary to care for the family member and the expected duration and schedule of treatment.

For the employee's own intermittent leave, the medical certification must contain a statement indicating the medical necessity of the intermittent treatment and its expected duration.

### **Return to Work**

An employee who has taken leave due to the employee's own serious health condition shall be required to provide a medical certification from the employee's physician that the employee is able to resume work. In addition, Centennial BOCES reserves the right to consult with a public health official if there is any question about possible transmission of a disease in the school setting.

The following return to work provisions applies to teachers:

1. If the teacher begins any category of FMLA leave more than five weeks prior to the end of the semester and the leave is for more than three weeks, Centennial BOCES may require the teacher seeking to return within the last three weeks to continue the leave through the end of the semester.
2. If the teacher begins any category of FMLA leave, except for the teacher's own serious health condition less than five weeks before the end of the semester, and the period of leave is greater than two weeks, Centennial BOCES may require the teacher seeking to return within the last two weeks to continue the leave through the end of the semester.
3. If the teacher begins any category of FMLA leave, except for the teacher's own serious health condition, three or fewer weeks before the end of the semester, and the period of leave is greater than five working days, Centennial BOCES may require the teacher to continue the leave through the end of the semester.

### **Repayment of Benefits**

If the employee fails to return to work upon completion of an approved FMLA leave, Centennial BOCES may recover from the employee the cost of any payments made to maintain the employee's group health insurance coverage unless the failure to return to work was due to a continuation, recurrence, or onset of a serious health condition as certified by a physician that entitles the employee to leave or for other reasons beyond the employee's control.

### **Posting/Notice to Employees**

Centennial BOCES shall post notices explaining the rights and responsibilities under the Family and Medical Leave Act (FMLA) in locations where they can be readily seen by employees and applicants for employment.

Notice of the FMLA's rights and responsibilities shall also be incorporated into employee handbooks or provided directly to employees.

Revised: January 18, 2018 Centennial  
BOCES