

Descriptor Title:  <b>FAMILY AND MEDICAL LEAVE ACT (FMLA)</b>	Descriptor Code:  GBRIA	Adopted Date:  July, 2008
	Reviewed Date:	Revised Date:  January, 2011

By federal statute, the employee’s benefits and job are protected while on FMLA. Hence, completing the appropriate FMLA paperwork is important.

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## **INTRODUCTION**

It is the policy of the DeSoto County School District to provide a leave of absence in accordance with the Family and Medical Leave Act (FMLA) of 1993.

- This policy information is only a general summary of the steps to follow when considering a request or need for FMLA. Refer to FMLA procedures and required forms for necessary details.

If the district is aware that the reason for an absence from work qualifies under FMLA, the absence will be designated as FMLA leave, *even if the employee does not request it.*

For information regarding FMLA processing, contact Employee Services Department by calling 662-449-7100.

## **FMLA COVERAGE AND BENEFIT COVERAGE DURING FMLA**

In accordance with the FMLA, eligible employees may receive up to a total of 12 weeks of Family and Medical Leave in a “rolling” 12-month period measured backward from the date an employee uses leave covered by this policy. That means the first time an employee takes FMLA leave, the employee’s leave year begins. Thereafter, each time the employee takes additional FMLA leave, the district will look backward 12 months and determine how much FMLA leave has been used during that time and how much FMLA leave remains.

The employer’s portion of medical and life insurance benefits will be maintained during the leave so long as the employee intends to return and does actually return to work.

- Employees on an FMLA leave continue to be responsible for paying any premium co-pays and their dependents share of premiums for benefit plans.

## **ELIGIBILITY**

To be eligible to take FMLA leave, an employee must meet these criteria:

- The employee must have worked for the District for at least 12 months (52 weeks), which need not be 12 consecutive months.

- An employee must have worked for the District for at least 1,250 hours during the 12 months immediately preceding the date the leave of absence begins or requested leave of absence would begin. These hours must be actual work hours, not compensated hours (personal leave, sick leave, vacation leave, etc., do not count toward the 1,250 threshold).
- The employee must work at a worksite where at least 50 employees are employed within 75 miles.

## **QUALIFYING REASONS**

Eligible employees may take a leave of absence covered by this policy during the “FMLA year” (defined below) for any of the following reasons:

- **“Family Leave”**: For the birth of the employee’s healthy child and/or placement by a State of a child for adoption or foster care with the employee, including child care after birth or placement for adoption or foster care. Leave to care for a child after birth or after adoption or placement for foster care must be taken within one year after the child’s birth or placement.
- **“Caregiver Medical Leave”**: To care for the employee’s spouse, child, or parent with a serious health condition.
- **“Medical Leave”**: For the employee’s own serious health condition (including pregnancy, childbirth, and other related conditions).
- **“Service Member Exigency Leave”**: For absences caused by an active duty exigency when the employee’s spouse, child, or parent is a service member.
- **“Military Caregiver Leave”**: To care for the employee’s spouse, child, parent, or next of kin (if the employee is the nearest blood relative) who is a “recovering service member.”

## **LEAVE PERIOD**

An eligible employee may take up to 12 workweeks of Family and Medical Leave during a “rolling” 12-month period measured backward from the date an employee uses leave covered by this policy. The rolling twelve (12) month period is referred to as the “FMLA year.”

Intermittent or reduced work schedule FMLA leave may be granted for a “caregiver leave,” medical leave,” “service member exigency leave” or “military caregiver leave.”

- Such leaves are subject to the qualifications and limitations set forth in the FMLA federal regulations.

## **USE OF PAID LEAVE DURING AN FMLA LEAVE**

FMLA leave is unpaid leave. However, all district employees are required to use all paid leave (i.e., sick leave, personal leave, vacation leave, and sick bank grants) starting the first day of FMLA leave unless the employee’s absence is related to an on-the-job injury covered by workers’ compensation insurance for which the employee receives workers’ compensation benefit payments during the FMLA leave covered by this policy or related to a disability for which an employee is receiving short term or long term disability payments during the FMLA leave covered by this policy. It shall be the employee’s responsibility to inform the District if he/she is receiving short term or long term disability payments.

- This also applies to an FMLA leave that is taken either intermittently or through a reduced work schedule.

When paid leave is exhausted, providing the employee is FMLA eligible, he/she may continue FMLA leave in a non-paid status or return to work.

### **REINSTATEMENT**

At least two days before FMLA leave is scheduled to end, the employee must provide the district with the “Return to Work Certification.” The district only needs this form if the leave was for the serious health condition of the employee.

- At the conclusion of the leave, the employee will be returned to the same position held at the time the leave began or to an equivalent position with equivalent pay, benefits and working conditions.

### **MEDICAL VERIFICATION REQUIREMENT**

In cases where an FMLA leave is to care for a serious health condition of himself or herself, or a spouse, dependent child, or parent of the employee, the employee must provide medical verification on the applicable Medical Leave Certification Form attached to the Leave Request Packet.

- The district may require a second opinion from a health care provider.
- If there is a difference between the medical verification and the second opinion, the district may require a third opinion.
- Employees may be required to recertify the need for the FMLA periodically, or if there is a change in the employee’s condition.
- Employees may be required to provide recertification if an employee’s or family member’s serious health condition lasts longer than a FMLA year.
- All medical certifications and related information that describe the health or medical history or condition of the employee or family members will be handled as confidential medical information.

### **FRAUDULENCE**

An employee who fraudulently obtains an FMLA leave is subject to disciplinary action, up to and including termination.

### **DISTRICT’S DESIGNATION AND APPROVAL OF FMLA**

It is the district’s responsibility to designate any absence that meets the eligibility requirements as FMLA. Either the designation of FMLA will occur because of an employee request for FMLA leave or when the district becomes aware that the employee has extended absence due to an illness or injury of the employee or an employee’s family member.

### **POLICY COMPLIANCE WITH FMLA LAWS AND REGULATIONS**

This policy is based on FMLA laws and regulations and is not intended to be interpreted to provide any protections or require restrictions not contemplated by the FMLA.