

## PERSONNEL

### Family/Medical Leave

The Central Kitsap School District (“District”) provides family and medical leave for eligible employees pursuant to the Family and Medical Leave Act of 1993 (“FMLA”). Washington’s Family Leave Act (“FLA”) generally provides the same unpaid leave benefits (but not continuation of health care) as the FMLA, and has the same eligibility requirements. If an employee takes FMLA leave, that leave also qualifies as FLA leave (*i.e.*, the periods of FMLA leave and FLA leave run concurrently, except in certain circumstances with leave due to a pregnancy-related disability).

#### 1. Eligibility.

An employee who has been employed by the District at least 12 months and has worked at least 1,250 hours in the 12 months preceding the leave, is entitled to twelve (12) weeks of unpaid Family/Medical Leave during a rolling twelve (12) month period, measured backwards from the time the leave is sought. While on Family/Medical Leave, an employee must concurrently use any accrued and applicable paid leave, in accordance with current collective bargaining agreements.

#### 2. Leave Entitlement

If an employee meets the eligibility requirements, he or she may take Family/Medical Leave for any of the following events:

- A. To care for a newborn son or daughter, an adopted son or daughter, or a newly placed foster son or daughter. To be eligible to take leave related to an adoption or foster care placement, the son or daughter must be under age 18 or be age 18 or older and incapable of self-care because of a disability.
- B. To care for a spouse, parent, son, daughter, or state-registered domestic partner of the employee who has a serious health condition.
- C. Because of a serious health condition of the employee if it renders the employee unable to perform the functions of his or her job.
- D. To respond to a qualifying exigency occurring because the employee’s spouse, son, daughter, or parent is a member of the Armed Forces (including National Guard and Reserves) and is on active duty or has been notified of a pending call to active duty.

In addition, an employee who meets the eligibility for Family/Medical Leave defined above is entitled to up to twenty six (26) weeks of unpaid leave in a single twelve month period to care for a spouse, son, daughter, parent or next of kin who is: (i) a member of the Armed Forces (including National Guard and Reserves), on the temporary disability retired list, or a qualified veteran; and (ii) undergoing medical

treatment, recuperation or therapy for a serious illness or injury sustained in the line of duty while on active duty in the Armed Forces. If an employee takes this type of Family/Medical Leave, he or she is limited to a combined total of 26 weeks of Family/Medical Leave for all purposes in the single 12-month period.

Leave taken to care for a newborn child, adopted child, or foster child must be taken within one year of the birth or placement for adoption or foster care. Also, leave taken to care for a newborn child, adopted child or foster child must be taken full-time and consecutively unless an alternative schedule is approved by the District. Leave taken due to the serious health condition of the employee or his or her family member or to care for a service member may be taken on an intermittent or reduced schedule basis if medically necessary. Leave taken for a qualifying exigency may be taken on an intermittent or reduced schedule basis.

If both a husband and wife who have a newborn child, adopted child or foster child are employed by the District, they shall be entitled to a combined total of twelve weeks of Family/Medical leave to care for that child during a rolling twelve month period. There is no pooling effect for spouses if the Family/Medical Leave is related to a serious health condition.

### 3. Requesting Leave

Employees must give 30 days advance notice of their need for leave if such need is foreseeable. If the need for leave is unforeseeable, the employee must provide the District notice of the need for leave as soon as a practicable.

### 4. Medical Certification

If an employee is seeking leave due to his or her own serious health condition or the serious health condition of his or her family member, written certification of the medical need for such leave is required. Under certain circumstances, the District may require the employee to obtain the opinion of a second health care provider, at District expense. If the opinions of the first and second health care provider differ on any matter determinative of the employee's eligibility for Family/Medical Leave, the employer and employee shall select a third health care provider, whose opinion, obtained at the District's expense, shall be binding.

### 5. Benefits During Leave

By taking Family/Medical Leave, an employee will not forfeit any benefits that accrued before the start of the leave. Further, the District will maintain group health insurance coverage for employees on FMLA leave whenever such insurance was provided before the leave was taken, and on the same terms as if the employee had continued to work. The employee must continue to pay his/her share of the premiums. Failure of the employee to pay his/her share of the health insurance premiums may result in loss of coverage.

## 6. Return to Work

Any employee returning from Family/Medical Leave will generally be entitled to return to the same position held by the employee when the leave commenced or to a position with equivalent benefits, pay, and other terms and conditions of employment. An employee will not be entitled to reinstatement if the employee would not have otherwise been employed by the District at the time reinstatement is requested. For instance, an employee will not be reinstated when returning from Family/Medical Leave if his or her job has been eliminated by a bona fide restructuring or a reduction-in-force. Moreover, certain “key” employees may lose their job restoration rights under some circumstances.

An employee returning from leave will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not received timely (on or before the employee’s return to work date), the employee’s return to work may be delayed until certification is provided.

If an employee fails to report for work within three days after the date on which he/she was to have returned to work, that employee will be presumed to have voluntarily resigned his/her position with the District.

If an employee fails to return from family leave, the District may recover the costs of the employee's health benefits paid during the Family/Medical Leave, unless the employee does not return to work due to: (1) the continuation, recurrence or onset of the employee’s or a family member’s serious health condition; (2) the serious injury or illness of a covered service member; or (3) other circumstances beyond the employee’s control (*e.g.*, the employee chooses to stay home with a newborn with a serious health condition; the employee’s spouse is unexpectedly transferred to a job location more than 75 miles from the employee’s worksite, etc.)

## 7. Special Rules for Instructional Employees

Special rules apply to instructional employees who take intermittent leave or leave on a reduced leave schedule, or who take leave near the end of the academic term. “Instructional employees” are employees whose principal function is to teach and instruct students in class, a small group, or an individual group.

### **Intermittent Leave**

When an instructional employee takes intermittent leave for the employee’s own serious health condition that is foreseeable based on planned medical treatment, or to care for a family member with a serious health condition or a covered servicemember, and the employee would be on leave for more than 20 percent of the total number of working days over the period of leave, 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.

If an instructional employee fails to give the required notice of foreseeable FMLA leave to be taken intermittently or on a reduced leave schedule, the District may require the employee to take leave of a particular duration, or to transfer temporarily to an alternate position. The District may also require the employee to delay taking leave until the employee satisfies the notice requirement.

**Leave near the end of the academic term**

If an instructional employee begins leave more than five weeks before the end of an academic term, the District may require the employee to continue taking leave until the end of the academic term if:

1. The leave will last at least three weeks, and
2. The employee would return to work during the three-week period before the end of the academic term.

If an instructional employee begins leave during the five weeks before the end of an academic term because of the birth of a child; the placement of a son or daughter for adoption or foster care; to care for a spouse, child, or parent with a serious health condition, or to care for a covered servicemember, the District may require the employee to continue taking leave until the end of the academic term if:

1. The leave will last more than two weeks; and
2. The employee would return to work during the two-week period before the end of the academic term.

If an instructional employee begins leave during the three weeks before the end of an academic term because of the birth of a child; the placement of a son or daughter for adoption or foster care; to care for a spouse, child, or parent with a serious health condition; or to care for a covered servicemember, the District may require the employee to continue taking leave until the end of academic term if the leave will last more than five working days.

“Academic term” means the school semester.

## 8. Administration Consistent with Applicable Laws

This policy will be administered to be consistent with all applicable laws and the regulations interpreting them. If an employee qualifies for leave under more than one federal or state legal regime, leave under both regimes will run concurrently, to the extent allowed by law.

### Family Care Act Leave

Employees may use any earned (sick, vacation or other paid-time off, but excluding District disability plans) to care for:

- their child with a health condition that requires treatment or supervision;
- their spouse, state-registered domestic partner, parent, parent-in-law, or grandparent who has a serious health condition or an emergency condition.

For the purposes of this policy, “child” means a biological, adopted or foster child, a stepchild, a legal ward, or a child for whom the employee discharges parental responsibility who is either: (i) under the age of 18; or (ii) 18 or older and incapable of self-care because of a physical or mental disability.

“Parent” means a biological parent of the employee or an individual who stood *in loco parentis* to the employee when the employee was a child.

“Parent-in-law” means a parent of the spouse of the employee.

“Spouse” means a husband, wife, or domestic partner, as the case may be.

“Sick or other paid time off” means time allowed for illness, vacation, and floating personal day. It does not include any benefit that includes leave granted by short-term or long-term disability plans or policies.

“Health condition which requires supervision or treatment” means:

- a) any medical condition requiring treatment or medication that the child cannot self administer;
- b) any medical or mental health condition that would endanger the child’s safety or recovery without the presence of a parent or guardian; or
- c) any condition warranting treatment or preventative health care, such as physical, dental, optical, or immunization services, when a parent must be present to authorize and when sick leave may otherwise be used for the employee’s preventative health care.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment or recovery in connection with such inpatient care; or continuing treatment by or under the supervision of a health care provider or a provider of health care services and which

includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities).

“Emergency condition” means a health condition that is a sudden, generally unexpected occurrence or set of circumstances related to one’s health demanding immediate action, and is typically very short term in nature.

An employee who takes leave to care for a family member must comply with the terms and conditions of the District policy that governs the type of paid time off the employee is using. This policy shall be interpreted to meet the requirements of law and shall not be interpreted in a way that exceeds the requirements of applicable law.

### Pregnancy Disability Leave

In accordance with state law requirements, Pregnancy Disability Leave is provided to female employees who need time off because they are sick or temporarily disabled because of pregnancy or childbirth. Employees will be given leave for the actual period of their sickness or temporary disability, which the District will assume is six weeks after childbirth. If more than six weeks of leave is required, the need for additional leave must be verified by an appropriate health care professional. Pregnancy Disability Leave is provided whether or not an employee is entitled to FMLA Leave. Employees must use any accrued sick leave to which they may be entitled under the District’s sick leave policy during the period of pregnancy-related disability. Except to the extent other forms of paid leave are available for use, pregnancy disability leave is unpaid. If the employee feels she needs additional leave, she should discuss any additional leave time requests with Human Resources. Employees who take pregnancy disability leave are entitled to return to the same or similar job at the same rate of pay, unless business necessity requires otherwise.

---

### **Legal References**

29 CFR 825	Family and Medical and Leave Act
29 CFR 825.600	Special rules for school employees, definitions
RCW 49.78	Family Leave
RCW 49.12.265-295	Family Care Act
WAC 162-30-020	Sex Discrimination - Pregnancy, childbirth, and pregnancy related conditions
WAC 296-130	Family Care Act

**Adopted: August 11, 2010**