

2
3 **PERSONNEL**

5328

4
5 Family Medical Leave

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7 In accordance with provisions of the Family Medical Leave Act of 1993 (FMLA), a leave of
8 absence of up to twelve (12) weeks during a twelve (12) month period may be granted to an
9 eligible employee for the following reasons: 1) birth of a child; 2) placement of a child for
10 adoption or foster care; 3) a serious health condition which makes the employee unable to
11 perform functions of the job; or 4) to care for the employee's spouse, child, or parent with a
12 serious health condition.

13
14 An employee is eligible to take FMLA leave, if the employee has been employed for at least
15 twelve (12) months and has worked at least one thousand two hundred fifty (1,250) hours during
16 the twelve (12) months immediately prior to the date leave is requested and there have been at
17 least fifty (50) District employees within seventy-five (75) miles for each working day during
18 twenty (20) or more workweeks in the current or preceding calendar year.

19
20 Employees will be required to use appropriate paid leave while on FMLA leave. Workers'
21 compensation absences will be designated FMLA leave.

22
23 The Board has determined that the twelve (12) month period during which an employee may
24 take FMLA leave is: 1) July 1 to June 30 or other specific dates.

25
26 The Superintendent has discretion to require medical certification to determine initial or
27 continued eligibility under FMLA, as well as fitness for duty.

28
29
30 NOTE: This provision applies to school districts with fifty (50) or more employees.
31 Those districts with less than fifty (50) employees must comply with notice and
32 record retention but are not obligated to provide the leave as a benefit of any
33 employee's employment.
34
35
36

37 Legal Reference: 29 CFR 825, 29 USC 2601, et seq. - Family and Medical Leave Act of
38 1993
39 §§2-18-601, et seq., MCA Leave Time
40 §§49-2-301, et seq., MCA Prohibited Discriminatory Practices
41

42 Policy History:

43 Adopted on:

44 Revised on:

1 **Charlo School District**

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5 Family Medical Leave

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7 Who Is Eligible

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9 Employees are eligible if they have worked for the District for at least one (1) year, and for one
10 thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there have
11 been at least fifty (50) District employees within seventy-five (75) miles for each working day
12 during twenty (20) or more workweeks in the current or preceding calendar year.

13
14 Benefit

15
16 Under certain conditions, eligible employees, if qualified, may be entitled to up to twelve (12)
17 weeks or twenty-six (26) weeks leave with continuing participation in the District's group
18 insurance plan.

19
20 Reasons for Taking Leave

21
22 Unpaid leave will be granted to eligible employees for any of the following reasons:

- 23
24 a. To care for the employee's child after birth, or placement for adoption or foster care;
25 b. To care for the employee's spouse, child, or parent (does not include parents-in-law) who
26 has a serious health condition;
27 c. For a serious health condition that makes the employee unable to perform the employee's
28 job;

29
30 Military Family Leave

31
32 a. Military Caregiver Leave

33 An eligible employee who is a relative of a servicemember can take up to 26
34 weeks in a 12 month period in order to care for a covered servicemember who is
35 seriously ill or injured in the line of duty.

36
37 b. Qualified Exigency leave

38 An eligible employee can take up to the normal 12 weeks of leave if a family
39 member is on covered active duty. Covered active duty includes duty of a member
40 of a regular component of the Armed Forces during deployment to a foreign
41 country, and duty of a member of a reserve component of the Armed Forces
42 during deployment to a foreign country under a call or order to active duty in
43 support of specified contingency operations.
44
45
46

Qualifying Exigencies include:

- a. Short-notice deployment
- b. Military events and related activities
- c. Childcare and school activities
- d. Financial and legal arrangements
- e. Counseling
- Rest and recuperation
- f. Post-deployment activities; and
- g. Additional activities agreed to by the employer and the employee.

Substitution of Paid Leave

Paid leave will be substituted for unpaid leave under the following circumstances:

- a. Accumulated sick/personal leave will be utilized concurrently with any FMLA leave that is taken for a serious health reason as described in (b) or (c) above.
- b. Accumulated vacation/personal leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in (a) above.
- c. Accumulated sick leave will be utilized concurrently with FMLA leave, whenever the FMLA leave is taken for reasons which qualify for sick leave benefits pursuant to District policy or an applicable collective bargaining agreement.
- d. Whenever appropriate workers' compensation absences shall be designated FMLA leave.
- e. Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state, and local law.

When Both Parents Are District Employees

If both parents of a child are employed by the District, they each are entitled to a total of twelve (12) weeks of leave per year. However, leave may be granted to only one (1) parent at a time, and only if leave is taken: (1) for the birth of a child or to care for the child after birth; (2) for placement of a child for adoption or foster care, or to care for the child after placement; or (3) to care for a parent (but not a parent-in-law) with a serious health condition.

If spouses are employed by the same employer, the aggregate number of weeks of leave that can be taken is twenty-six (26) weeks in a single twelve (12) month period for serviceperson leave or a combination of exigency and serviceperson leave. The aggregate number of weeks of leave that can be taken by a husband and wife who work for the same employer is twelve (12) weeks if for exigency leave only.

Employee Notice Requirement

The employee must follow the employer's standard notice and procedural policies for taking FMLA.

Employer Notice Requirement (29 C.F.R. §825.300)

Employers are required to provide employees with notice explaining the FMLA through a poster and either a handbook or information upon hire. If an employee requests FMLA leave, an employer must provide notice to the employee within five (5) business days of whether the employee meets the FMLA eligibility requirements. If an employee is not eligible to take FMLA, the employer must provide a reason. The employer must also provide a rights and responsibilities notice outlining expectations and obligations relating to FMLA leave. If FMLA leave is approved by the employer, it must provide the employee with a designation notice stating the amount of leave that will be counted against an employee's FMLA entitlement.

Notice for Leave Due to Active Duty of Family Member

In any case in which the necessity for leave is foreseeable, whether because the spouse or a son, daughter, or parent of the employee is on active duty or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as soon as is reasonable and practicable.

Requests

A sick leave request form is to be completed whenever an employee is absent from work for more than three (3) days or when an employee has need to be absent from work for continuing treatment by (or under the supervision of) a health care provider.

An employer may require that a request for leave be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.

Medical Certification

The District will require medical certification to support a request for leave or any other absence because of a serious health condition (at employee expense) and may require second (2nd) or third (3rd) opinions (at the employer's expense) and a fitness-for-duty report or return-to-work statement.

Intermittent/Reduced Leave

FMLA leave may be taken “intermittently or on a reduced leave schedule” under certain circumstances. Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with District approval. Where FMLA leave is taken to care for a sick family member or for an employee’s own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. An employee may be reassigned to accommodate intermittent or reduced leave. When an employee takes intermittent leave or leave on a reduced leave schedule, increments will be limited to the shortest period of time that the District’s payroll system uses to account for absences or use of leave.

Insurance

An employee out on FMLA leave is entitled to continued participation in the appropriate group health plan, but it is incumbent upon the employee to continue paying the usual premiums throughout the leave period. An employee’s eligibility to maintain health insurance coverage will lapse if the premium payment is more than thirty (30) days late. The District will mail notice of delinquency at least fifteen (15) days before coverage will cease.

Return

Upon return from FMLA leave, reasonable effort shall be made to place the employee in the original or equivalent position with equivalent pay, benefits, and other employment terms.

Recordkeeping

Employees, supervisors, and building administrators will forward requests, forms, and other material to payroll to facilitate proper recordkeeping.

Summer Vacation

The period during the summer vacation or other scheduled breaks (i.e., Christmas) an employee would not have been required to work will not count against that employee’s FMLA leave entitlement.

SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

Leave More Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave more than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

- a. The leave is at least three (3) weeks; and
- b. The employee's return would take place during the last three-(3)-week period of the semester term.

Leave Less Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

- a. The leave is longer than two (2) weeks; and
- b. The employee's return would take place during the last two-(2)-week period of the semester term.

Leave Less Than Three (3) Weeks Before End of Term

If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than three (3) weeks before the end of term, the District may require the employee to continue taking leave until the end of the academic term if the leave is longer than five (5) days.

Intermittent or Reduced Leave

Under certain conditions, an instructional employee needing intermittent or reduced leave for more than twenty percent (20%) of the total working days over the leave period may be required by the District to:

- a. Take leave for a period(s) of particular duration not to exceed the duration of treatment;
or
- b. Transfer to an alternate but equivalent position.

Procedure History:

Adopted on: 12/19/19

Reviewed on:

Revised on:

1 **Charlo School District**

2
3 **PERSONNEL**

5330

4
5 Maternity and Paternity Leave

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7 The School District's maternity leave policy covers employees who are not eligible for FMLA
8 leave at Policy 5328. Maternity leave includes only continuous absence immediately prior to
9 adoption, delivery, absence for delivery, and absence for post-delivery recovery, or continuous
10 absence immediately prior to and in the aftermath of miscarriage or other pregnancy-related
11 complications.

12
13 The School District shall not refuse to grant an employee a reasonable leave of absence for
14 pregnancy or require that an employee take a mandatory maternity leave for an unreasonable
15 length of time. The School District has determined that maternity leave shall not exceed ____
16 weeks unless mandated otherwise by the employee's physician. Employees will be required to
17 use appropriate accumulated paid leave concurrently while on FMLA leave.

18
19 The School District shall not deny to the employee who is disabled as a result of pregnancy any
20 compensation to which the employee is entitled as a result of the accumulation of disability or
21 leave benefits accrued pursuant to plans maintained by the employer, provided that the employer
22 may require disability as a result of pregnancy to be verified by medical certification that the
23 employee is not able to perform employment duties.

24
25 An employee who has signified her intent to return at the end of her maternity leave of absence
26 shall be reinstated to her original job or an equivalent position with equivalent pay and
27 accumulated seniority, retirement, fringe benefits, and other service credits.

28
29 The School District will review requests for Paternity Leave in accordance with any applicable
30 policy or collective bargaining agreement provision governing use of leave for family purposes.

31
32 Legal Reference: § 49-2-310, MCA Maternity leave – unlawful acts of employers
33 § 49-2-311, MCA Reinstatement to job following pregnancy-related
34 leave of absence
35 Admin. R. Mont. 24.9.1201—1207 Maternity Leave

36
37 Policy History:

38 Adopted on: 12/19/19

39 Reviewed on:

40 Revised on: