



POLICY—400.26—FAMILY MEDICAL LEAVE

	DISTRICT CODE: 400.26	ADOPTED: 3.21.2017
	RESCINDS: GCCAO	ADOPTED: 9.20.11

BOARD POLICY

1. The Board adopts a Family and Medical Leave policy designed to comply with the provisions of the Family and Medical Leave Act (FMLA), 29 USC 2601.
2. This law entitles eligible employees to receive up to 12 workweeks of unpaid leave measured on a rolling twelve month period looking back from the date the leave is needed for serious medical conditions or other qualifying events.
3. An eligible employee shall be required to use accrued personal leave, family leave, sick leave, and vacation leave, as applicable, prior to the use of leave without pay for the family and medical leave period. All applicable military leave benefits as designated by the Family and Medical Leave Act (FMLA), 29 USC 2601, shall be provided.
4. The Board authorizes the Superintendent and the District Administration to establish administrative regulations for Family and Medical Leave Benefits.

	ADMIN REG: 400.26-1	APPROVED: 3.21.17
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ADMINISTRATIVE REGULATION—400.26-1: (Definitions)

For purposes of this regulation the following definitions apply:

1. An “eligible employee” means any employee who has been employed for at least 12 months by the District and worked for at least 1,250 hours during the 12-month period immediately preceding the commencement of leave.
2. The term “employment benefits” means all benefits provided by the District to its employees such as group life insurance, health insurance, disability insurance, sick leave, personal leave, vacation leave and pension or retirement benefits.
3. The term “eligible family member” means a spouse, son, daughter or parent of the eligible employee.
4. The term “spouse” “means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid where entered into and could have been entered into at least one state. This definition includes an individual in a same-sex or common law marriage that either:



- 4.1. 1) was entered into a state that recognizes such marriages; or
- 4.2. (2) if entered into outside of any state, is valid in the place where entered into and could have been entered into in a least one state.” 29 CFR §§ 825.102
- 5. The term “son or daughter” means biological, adopted, or foster child, a stepchild, or a legal ward, or a child of a person standing *in loco parentis*. A child is: less than 18 years of age; or older than 18 years, but incapable of self-care due to mental or physical disability.
- 6. The term “parent” means the biological parent of the eligible employee or an individual who stands or stood *in loco parentis* to an employee when the employee was under 18 or incapable of self-care. This does not include parents-in-law.
- 7. The term “serious health condition” means an illness, impairment, or physical or mental condition that requires:
 - 7.1. Inpatient care in a hospital, hospice, or residential medical facility; or
 - 7.2. Continuing treatment certified as required by a health care provider.
- 8. The term “health care provider” means:
 - 8.1. Doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or
 - 8.2. Any person determined by the secretary of labor to be capable of providing health care services (§29 C.F.R.–825.118); or
 - 8.3. Any health care provider from whom the District’s group health plan benefits manager will accept medical certification of the evidence of a serious health condition.

ADMIN REG:
400.26-2

APPROVED:
3.21.17

ADMINISTRATIVE REGULATION—400.26-2: (Administering Family and Medical Leave Benefits)

- 1. **Entitlement to Leave:** An eligible employee is entitled to 12 workweeks of leave without pay based on a rolling twelve month period looking back from the date the leave is needed in the event of any of the following:
 - 1.1. The birth of a son or daughter of the employee and to care for that son or daughter;
 - 1.2. The placement of a son or daughter with the employee for adoption or foster care;
 - 1.3. An eligible family member has a serious health condition; or
 - 1.4. The employee suffers from a serious health condition that makes the employee unable to perform the essential functions of the employee’s position.
 - 1.5. Qualifying military exigency leave.



2. Relation to Other Non-Paid Leave

- 2.1. Any employee who is entitled to unpaid leave under any other District policy shall be limited to the additional weeks of leave necessary to attain the total 12 workweeks of leave provided by this policy.

3. Relation to Other Leave

- 3.1. The District shall require the employee to use accrued personal leave, family leave, sick leave, and vacation leave, as applicable, before the use of leave without pay for the family and medical leave period. Existing District policy governing appropriate use of sick, personal leave, and vacation days are applicable. If an employee uses accrued compensatory time, that leave time will be counted against the FMLA leave entitlement. The total family leave period, whether paid or unpaid, shall not exceed 12 workweeks.

4. Foreseeable Leave: Employees, or an appropriate representative, shall submit a request for family or medical leave 30 days in advance when the need for the leave is foreseeable, or as soon as possible in emergencies.

- 4.1. The District may designate FMLA leave after the fact:
- 4.1.1. If the reason for leave was previously unknown, provided the reason for leave is made within two business days after the employee's return to work; and
 - 4.1.2. The District has preliminarily designated the leave as FMLA pending medical certification.

5. Intermittent Leave

- 5.1. Leave due to a serious health condition of an employee or eligible family member may be taken intermittently or on a reduced schedule when medically necessary. The employee requesting intermittent leave or leave on a reduced leave schedule for planned medical treatment must develop a schedule with his or her immediate supervisor, and, based on input from the health care provider, meets the District's needs without unduly disrupting the District's operation. If an employee requests intermittent leave or leave on a reduced schedule for a foreseeable, planned medical treatment, the District may require the employee to transfer temporarily to an available alternative position with equivalent pay and benefits that better accommodates recurring periods of leave. The District will make the determination as to whether a position is an equivalent position.

6. Required Documentation: The District shall document leave requests which qualify as FMLA leave, and will designate any qualifying leave taken by employees as FMLA leave. All leave qualifying as FMLA leave shall be designated as such and shall be subject to all provisions of this rule. The District shall notify the employee in writing of the designation of FMLA within five business days, or as soon as a determination can be



made, that the leave requested qualifies as FMLA if the preliminary information is not sufficient to make such determination.

6.1. Written notice to employees shall include the following information:

- 6.1.1. That the leave will be counted against the employee's annual FMLA entitlement,
- 6.1.2. Any requirements for the employee to furnish medical certification of a serious health condition and the consequences for not doing so,
- 6.1.3. A statement explaining that the employee will be required to exhaust unused personal leave, family leave, sick leave, and vacation leave, as applicable, before going into unpaid leave status,
- 6.1.4. Any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis,
- 6.1.5. Any requirement for the employee to present a medical release before being restored to employment,
- 6.1.6. The employee's right to restoration to the same or an equivalent job upon return from leave,
- 6.1.7. The employee's potential liability for payment of health insurance premiums paid by the District during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.

7. **Spouses of Employees Employed by the District:** In any case, where both husband and wife are employees of the District and both seek leave under this policy, such leave shall be limited to an aggregate 12 workweeks during any 12-month period if:

- 7.1. Leave is sought to care for a newborn daughter or son or the adoption of a daughter or son; or
- 7.2. Leave is sought to care for a sick parent.
- 7.3. If the leave is requested for either the husband's or the wife's own serious illness or the serious health condition of the couple's son or daughter, the aggregate 12-workweek limitation in the FMLA does not apply.

8. **Required Medical Certification for Leave:** A certificate issued by a health care provider of the eligible employee or the eligible family member must support all requests for leave under this policy.

- 8.1. The Certificate: "Medical Certification Statement—Employee's Own Serious Illness" or "Medical Certification Statement for Family Members," shall be provided within 15 days after leave is requested.
- 8.2. A certificate is sufficient if it states:
 - 8.2.1. the date on which the serious health condition commenced.
 - 8.2.2. the probable duration of the condition.
 - 8.2.3. the appropriate medical facts regarding the condition.



- 8.2.4. a statement that the serious medical condition prevents the employee from performing the essential tasks of the applicable employment position or that it requires the employee to attend and care for an eligible family member.
 - 8.3. The District may require, at its option and expense, second or third certifications in support of a request for leave.
 - 8.4. The District shall require recertification of the necessity for the family or medical leave at reasonable intervals, but not more than every 30 days, unless:
 - 8.4.1. the employee requests an extension of leave.
 - 8.4.2. circumstances described in the previous certification has changed significantly; or
 - 8.4.3. the District receives information that casts doubt on the continuing validity of the certification.
9. **Required Medical Certification for Return:** All employees returning from leave caused by a serious health condition shall provide a certificate, "Notice of Intention to Return From Family or Medical Leave," issued by a health care provider of the eligible employee.
 - 9.1. The certificate shall be provided at least two business days before the requested return date.
 - 9.2. A certificate is sufficient if it states:
 - 9.2.1. the employee is medically fit to return to work in the previous position.
 - 9.2.2. the appropriate medical facts regarding the employee's fitness to return to work.
 - 9.2.3. a statement that the serious medical condition no longer prevents the employee from performing the essential tasks of the position.
 - 9.3. The District may require, at its option and expense, second or third certification in support of a request to return to work.
10. **Restoration of the Employee:** An employee who takes a leave complying with the provisions of this policy is entitled upon return from leave to:
 - 10.1. Be restored to the position held by the employee prior to leave; or
 - 10.2. Be provided an equivalent position in terms of benefits, pay and other terms and conditions of employment.
 - 10.3. A determination as to whether a position is an equivalent position will be made by the District.
11. **Denial of Restoration:** The District may deny restoration of status or equivalent position, if:
 - 11.1. The denial is necessary to prevent substantial and grievous economic injury to the operations of the District.



- 11.2. The District notifies the employee that it intends to deny restoration when it determines that injury to the employee would occur;
- 11.3. The employee elects not to return to employment.

12. Effects on Benefits

- 12.1. During the family or medical leave period, the District shall continue to pay its portion of the employee's group health insurance premium. An employee on family or medical leave must continue to pay his or her portion of the health insurance premium in order to keep coverage in effect.

13. Rules Applicable Near End of School Year: If the employee begins leave more than five weeks prior to the end of the school year, the District may require the employee to continue taking unpaid leave until the end of the school year if:

- 13.1. The leave requested is of at least three weeks duration; and
- 13.2. The return to employment would occur during the one-week period before the end of the school year.

14. Leave Less Than Five Weeks Prior to the End of School Year: If the employee begins leave for reasons other than a personal serious health condition which commences less than five weeks prior to the end of the school year, then the District may require the employee to continue to take unpaid leave until the end of the school year if:

- 14.1. The leave requested is of greater than a two-week duration; and
- 14.2. The return to employment would occur during the two-week period before the end of the school year.

15. Leave Less Than Three Weeks Prior to End of School Year

- 15.1. If the employee begins leave for reasons other than personal serious health conditions during the period that commences three weeks prior to the end of the school year and the leave is greater than five working days, then the District may require the employee to continue to take unpaid leave until the end of the school year.

16. Application For Leave

- 16.1. Forms for application and certification of FMLA are available in the Department of Human Resources office. Medical records created for the purpose of FMLA and the Americans With Disabilities Act must be maintained in a separate, confidential file.

17. Posting of Notice: The District shall post in a conspicuous place on school premises a notice of rights under this policy. *

- 17.1. *This notice must be approved by the Secretary of Labor.



	ADMIN REG: 400.26-3	APPROVED: 3.21.17
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ADMINISTRATIVE REGULATION—400.26-3: (Military Exigency Leave)

1. Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.
2. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member’s call-up or service. The qualifying exigency must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.
3. “Covered active duty” means:
 - 3.1. in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
 - 3.2. in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.
4. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee’s 12-week maximum of FMLA leave in a 12-month period.

	ADMIN REG: 400.26-4	APPROVED: 3.21.17
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ADMINISTRATIVE REGULATION—400.26-4: (Military Caregiver Leave)

1. Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.
2. An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to take care of leave to care for that service member.
3. Next of kin is defined as the closest blood relative of the injured or recovering service member.
4. The term “covered service member” means:



- 4.1. A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- 4.2. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

ADMIN-REG:
400.26-5

APPROVED:
3.21.17

ADMINISTRATIVE REGULATION—400.26-5: (Certification of Qualifying Exigency for Military Family Leave)

1. The District will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the Certification of Qualifying Exigency for Military Family Leave Form.
2. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave.
3. The company will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the Certification for Serious Injury or Illness of Covered Service member FORM.

EXHIBITS

None

REFERENCES

None

FORMS

None

CANYONS BOARD OF EDUCATION

This online presentation is an electronic representation of the Canyons School District's currently adopted policy manual. It does not reflect updating activities in progress. The official, authoritative manual is available for inspection in the office of the Superintendent located at 9361 South 300 East Sandy, UT 84070.