

Tapestry Public Charter School Policy Manual

Family and Medical Leave Act Policy

Adopted:

Revised: NA

The Tapestry Public Charter School Board adopts the following policy, effective on the date of adoption by the Board.

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I. PURPOSE

The purpose of this policy is to establish policies for leave that is covered by the Family and Medical Leave Act.

II. FAMILY AND MEDICAL LEAVE ACT

Under the Family Medical Leave Act of 1993 (FMLA) as amended, employees who have worked for this school for the at least 12 months and a total of 1,250 hours are eligible for up to 12 weeks of unpaid leave within a 12 month period for the following reasons:

- Incapacity due to pregnancy, prenatal care, or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, child, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform his or her job; and
- To address certain qualifying exigencies arising out of the employee's spouse, child, or parent being a covered member of the military on active duty or called to active duty status in the National Guard or Reserves in support of contingency operations.

The employee must provide 30 days advance notice, or as soon as practicable, of the need to take FMLA leave as well as sufficient information for determining whether the leave qualified for FMLA protection and the anticipated timing and duration of the leave. Employees may be required to provide documentation to support the need for leave.

III. DEFINITIONS

"Covered Service member" means 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 on the temporary retired list, for a serious injury or illness. A member of the Armed Forces would have a serious injury or illness if he or she has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that the injury or illness may render the service member medically unfit to perform duties of the member's office, grade rank or rating.

"Instructional employee or other key position" means an employee whose Principal function is to instruct or directly support instruction of students in a class, a small group or an individual setting or provide an essential function such as administration which would provide a disruption in the normal operations of the school.

"Parent" means a biological parent or one who acted in place of a parent when the employee was a child. The term "parent" does not include parent "in-law."

"Qualifying exigency" may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider and has been duly documented by a health care provider.

"Son or daughter" means a biological, adopted or foster child, a step-child, a legal ward or a child for whom the employee acts as a parent. The son or daughter must be under age 18 or, if the son or daughter is age 18 or older, he/she must be incapable of self-care on a daily basis due to a documented mental or physical disability.

"Spouse" means a husband or wife.

IV. AMOUNT AND TYPE OF LEAVE

Except as provided below, an employee may take a total of twelve (12) weeks during any twelve-month period. The twelve-month period shall be measured backward from the date the employee begins using any FMLA leave. In the event of the birth, adoption or foster placement of a son or daughter, all leave must be completed within twelve (12) months after the birth, adoption or foster placement.

Employees seeking to take Family and Medical Leave to care for a newborn or adopted child, a child placed with the employee for foster care, a parent, spouse or child with a serious health condition, or because of their own serious health condition, must first exhaust any personal leave, paid vacation, applicable accumulated sick leave, and any other applicable paid leave for their Family and Medical Leave.

- A. Intermittent or Reduced Leave.** An employee may only take leave on an intermittent or reduced leave schedule when medically necessary. The Board will require a certification to document the medical necessity of such intermittent leave.
- B. Notification of Leave.** If the need for FMLA leave is foreseeable, an employee requesting leave must provide at least 30 days advance notice to the Principal. If such advance notice is not possible, the employee must give said notice as soon as practicable.
- C. Benefits and Return to Work.** Employees taking FMLA leave will not continue to accrue benefits for which they are eligible that are provided by the school while on FMLA leave. With the exception of paid vacation, personal, medical or sick leave required to be exhausted prior to taking unpaid leave.

Upon return from leave, the employee is entitled to be reinstated to a position equivalent to the one the employee held when he/she left on FMLA leave, with equivalent pay, benefits and other terms and conditions of employment. Upon proper notice, however, the Board may deny reinstatement under this policy to an employee whose salary is within the highest 10% of the employees employed by the school ("key employee") if such denial is necessary to prevent substantial and grievous economic injury to the school's operation, as determined by the Board.

V. FMLA DESCRIPTION OF SERIOUS HEALTH CONDITION

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- **Inpatient care** (i.e., overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- **Absence Plus Treatment:** a period of incapacity of more than three full consecutive days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves one of the following. The requirements for treatment by a healthcare provider means an in-person visit to a healthcare provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity.
 - Treatment two or more times (within 30 days of the first day of incapacity, unless extenuating circumstances exist) by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health services (e.g., physical therapist) under orders of, or on referral by healthcare provider; or
 - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider.
- **Pregnancy:** any period of incapacity due to pregnancy, or for prenatal care.
- **Chronic Conditions Requiring Treatments:** a chronic condition which: Requires periodic visits (at least twice a year) for treatment by a healthcare provider, or by a nurse or physician's assistant under direct supervision of a healthcare provider; Continues over an extended period of time (including recurring episodes of a single underlying condition); and May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
- **Permanent/Long-term Conditions Requiring Supervision:** a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- **Multiple Treatments (Non-Chronic Conditions):** any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a healthcare provider, either from restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity⁴ of more than three full consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), or kidney disease (dialysis).