

## **FAMILY AND MEDICAL LEAVE ACT ("FMLA") POLICY**

Greensburg Community School Corporation ("GCSC") provides leaves of absence to eligible employees for certain family and medical reasons in compliance with the Family and Medical Leave Act of 1993 ("FMLA"), as amended. In addition, the U.S. Department of Labor's FMLA Notice is posted in the workplace and included at the end of this policy.

### **Eligibility**

To be "eligible" for FMLA an employee must have worked for the GCSC as of the date the requested leave is to begin:

1. for at least 12 months; and
2. for at least 1,250 hours during the previous 12 months before the date the leave begins.

### **Reasons for Leave**

FML may be requested for the following reasons:

1. **Employee Medical Leave.** This leave is for the employee's own "serious health condition" if the condition renders him unable to perform his job functions.
2. **Family Medical Leave.** This leave is to care for the "serious health condition" of the employee's spouse, child, or parent.
3. **Parenting Leave.** This leave is to care for a new son or daughter, including by birth, adoption, or foster care placement. An employee may take Parenting Leave only during the 12-month period that begins on the date of the birth, adoption, or placement. This leave cannot be taken intermittently or on a reduced schedule.
4. **Military Family Exigency Leave.** This leave is for a qualifying exigency arising from the fact that the employee's spouse, son or daughter, or parent is on or has been called to covered active duty in the U.S. Armed Forces. Qualifying exigencies include making arrangements necessitated by short-term deployments, attending certain military events and related activities, assisting the service member with alternative child care arrangements when the active duty or call to active duty status necessitates a change in the existing arrangements, assisting the service member with certain financial and legal arrangements related to active duty or the call to active duty, attending counseling arising from covered active duty or the call to covered active duty, spending time with the military member who is on short-term, temporary rest and recuperation leave, and caring for a military member's parent when the parent is incapable of self-care.
5. **Covered Servicemember Leave.** This leave is to care for the employee's spouse, child, or parent who is a Covered Servicemember with a Serious Illness or Injury incurred or aggravated in the line of active duty on active duty. Also, this leave may be taken by an employee who is the next of kin of a Covered Servicemember.

### **Duration of Leave**

An eligible employee is entitled to a total of 12 work weeks of leave during a "rolling" 12-month period measured backward from the date he uses FML other than Covered Servicemember Leave.

For Covered Servicemember Leave, eligible employees are entitled to up to 26 workweeks of leave in a single 12-month period. For purposes of Covered Servicemember Leave only, the “single 12-month period” is the 12-month period measured forward from the first date of Covered Servicemember Leave.

If married spouses are both eligible employees, each will be permitted to take only (1) a combined total of 12 weeks for Parenting Leave and (2) a combined total of 26 weeks in a single 12-month period for Covered Servicemember Leave.

### **Substitution of Paid Time**

Generally, FMLA is unpaid. However, if an employee has available paid time off benefits and the circumstances of their FMLA qualify under the terms of the applicable benefit plan(s), the **employee must use all available paid time off concurrent with FMLA**. Specifically, FMLA will run concurrently with specified benefits as follows:

<b><u>TYPES OF PAID TIME OFF</u></b>	<b><u>APPLIED DURING</u></b>				
	<b><u>Parenting Leave</u></b>	<b><u>Family Medical Leave</u></b>	<b><u>Employee Medical Leave</u></b>	<b><u>Military Family Exigency Leave</u></b>	<b><u>Covered Service Member Leave</u></b>
PTO	Yes	Yes	Yes	Yes	Yes
Accumulated Sick Days	Yes	Yes	Yes	Yes	Yes
Vacation Days	Yes	Yes	Yes	Yes	Yes

Employees will not be required to use available paid time off when receiving disability or worker’s compensation benefits. However, if disability or worker’s compensation benefits provide replacement income less than the employee’s full salary, employees may elect to use available paid time off to supplement such benefits with a written request to the GCSC’s Administration Office, so long as the plan permits this supplement. FMLA will run concurrently with disability or worker’s compensation benefits, regardless of whether the employee supplements those benefits with available paid time off.

### **Intermittent or Reduced Schedule Leave**

Under certain circumstances, an employee may take intermittent or reduced schedule leave in increments of no less than one hour.

“Intermittent leave” generally means leave taken on an occasional basis for such reasons as medical treatments. “Reduced schedule leave” means a temporary, but regular, change in the employee’s usual number of hours per day or hours per week.

For Family Medical, Employee Medical, or Covered Servicemember Leave, the employee may take an intermittent or reduced schedule leave if it is medically necessary. An employee must provide certification that a medical need for leave exists and that the medical need can best be met through an intermittent or reduced schedule leave. Military Family Exigency Leave may also be taken on an intermittent or reduced schedule basis.

An employee is not entitled to take leave intermittently or on a reduced schedule for Parenting Leave.

Employees needing intermittent leave or a reduced schedule must make reasonable efforts to schedule leave so as not to disrupt operations. In addition, if an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, The GCSC may require the

employee to transfer temporarily to an available alternative position, with equivalent pay and benefits, for which the employee is qualified and that better accommodates intermittent or reduced schedule leaves.

### **Notification Requirements**

An employee must request FMLA at least 30 days before the date FMLA is to begin by requesting and completing a Request for Leave Form except in cases of medical emergency, unexpected changed circumstances, or where the need for leave is unforeseeable. In those cases, the employee must give notice as soon as practicable after he is aware that he needs to take FML. Request for Leave Forms can be obtained from the Administration Office.

An employee requesting Family Medical, Employee Medical, or Covered Servicemember Leave, *must submit a medical certification from the employee's or family member's health care provider within 15 days after GCSC delivers the written request for medical certification for FMLA.* The certification must also notify the GCSC of the reasons why the intermittent or reduced schedule leave is medically necessary and of the schedule for treatment if applicable. Employees requesting Military Family Exigency Leave *must also submit certification of the qualifying exigency within 15 days after the GCSC's written request.*

If an employee fails to give 30 days' notice for a foreseeable leave with no reasonable excuse for the delay, the GCSC may deny FMLA until at least 30 days after the date the employee provides notice of the need for FMLA. After an employee submits a medical certification, the GCSC may require an employee to obtain a second opinion from a provider of employer's choice and at its expense. In some cases, the employer may require, at its expense, a third opinion from a provider selected jointly by the employee and the employer.

During leave, an employee may be required to report periodically on his status and intent to return to work.

When on a Family or Employee Medical Leave, an employee may also be required to submit medical recertifications periodically during the leave period subject to the same rules as the initial medical certification. Medical recertifications may also be required under certain specific circumstances, for example, (1) when an employee requests an extension for a leave, (2) when circumstances under an initial certification have significantly changed, (3) when there is information which casts doubt on the current medical certification, or (4) when an employee is unable to return to work after leave.

Upon the conclusion of any Employee Medical Leave, the employee must present certification from his/her health care provider that s/he is able to return to work. **Unless and until an employee provides this fitness-for-duty certification on the GCSC's form and the Superintendent informs the employee's Department Head the employee is medically released to return to work, the employee will not be able to return to work. Employment will be terminated if the employee does not timely provide the certification.**

### **Continuation of Benefits**

As a general rule, FMLA is unpaid. The GCSC, however, will maintain an employee's coverage under its group health plans on the same conditions during FMLA as if the employee had been employed continuously during the FMLA period.

An employee may choose not to continue coverage. An employee who continues health coverage must continue to pay his share of the premiums during an FMLA period to maintain coverage. An employee's premium payment is due on the same schedule as premium payments are made under COBRA.

The GCSC's obligation to continue health coverage during FMLA will end if the employee's premium payment is more than 30 days late. Even if an employee does not continue health coverage during leave, the GCSC will restore regular coverage if the employee returns to work.

## **Job Restoration Right**

Upon return from leave, employees will generally be restored to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Certain salaried key employees (as defined by the FMLA) may be denied restoration if their reinstatement would cause substantial and grievous economic injury to the GCSC. If, during leave, a reduction or other event occurs that would have changed, or even eliminated, the employee's job had the employee not taken leave, the returning employee will have no greater rights than if the employee had been continuously employed during leave. GCSC Administration will determine whether an employee will be restored to the same position or to an equivalent position.

If an employee chooses not to return to work after leave expires, the GCSC may recover its share of health insurance premiums paid on the employee's behalf during the leave period. The GCSC will seek to recover those premiums unless the employee fails to return because of (1) the continuation, recurrence, or onset of a serious health condition (or serious illness or injury, with respect to Covered Servicemember Leaves) that would otherwise entitle the employee to FMLA or (2) other circumstances beyond the employee's control. If an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition (or serious illness or injury, as applicable), the employee must provide a medical certification of his serious health condition or serious illness/injury within 30 days from the date the GCSC requests it. If the employee does not provide the certification in a timely manner, the GCSC may recover its share of the health insurance premiums paid for the employee during the entire FMLA period.

At the exhaustion of FMLA, if an employee is unable to return to work, employment will be administratively terminated unless the employee timely requests and is eligible for an Extended Medical Leave Of Absence. Request for extended leave *must be submitted to the Chief in **writing** within 5 days of the expiration of FMLA or extended leave will be denied and employment administratively terminated.*

## **Selected Definitions**

**"Parent"** means a biological, adoptive, step or foster father or mother, or any other individual who stood in the place of the employee's parent when the employee was a Son or Daughter (see definition of "Son or Daughter" below). The term "Parent" does not typically include parents "in law" or "grandparents."

**"Son or Daughter/Child"** means a biological, adopted or foster child, a stepchild or legal ward of an employee, or a child for whom the employee stands in the place of his parent, who is either (1) under age 18 or (2) an eligible adult child age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA is to commence. (This definition does not apply to Covered Servicemember Leave or Military Family Exigency Leave.)

As a matter of policy, we will provide FMLA to parents for children older than 17 if the child is living with the parent and enrolled in high school.

**"Son or Daughter/Child of a Covered Servicemember"** means a Covered Servicemember's biological, adopted or foster child, stepchild, legal ward, or a child for whom the Covered Servicemember stood in the place of his parent, who is of any age. (This definition only applies to Covered Servicemember Leave.)

**"Son or Daughter/Child on covered active duty"** means (1) the employee's biological, adopted or foster child, stepchild, legal ward, or a child for whom the employee stood in the place of the parent when the child was under 18, (2) who is on or called to covered active duty, and (3) who is of any age. (This definition only applies to Military Family Exigency Leave.)

**"Covered Active Duty"** means, in the case of a member of the regular Armed Forces, duty during deployment to a foreign country. In the case of a member of a reserve component of the Armed Forces,

covered active duty means duty during deployment to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).

“Covered Servicemember” 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 otherwise on the military’s temporary disability retired list for a serious illness or injury. Covered Servicemember also means a veteran who (1) is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and (2) was a member of the Armed Forces (including a member of the National Guard or Reserves) and was released or discharged, other than dishonorably, at any time during the 5-year period before the first date the eligible employee takes Covered Servicemember Leave.

“Serious Illness or Injury” with respect to a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred or aggravated in the line of duty and on active duty that renders the Covered Servicemember unfit to perform the duties of his or her office, grade, rank or rating. With respect to a Covered Servicemember who is a veteran, Serious Illness or Injury means a qualifying illness or injury (as defined by the Secretary of Labor) that was incurred or aggravated in the line of duty on active duty in the Armed Forces and that manifested itself before or after the member became a veteran and is (1) a continuation of a serious injury or illness incurred or aggravated when the veteran was a member of the Armed Forces and rendered him unable to perform the duties of his office, grade, rank, or rating; (2) a physical or mental condition for which the veteran has a VA Service Related Disability Rating of 50% or greater; (3) a physical or mental condition that substantially impairs the veteran’s ability to secure or hold gainful employment because of disability related to military service; or (4) an injury (including a psychological injury) for which the veteran has been enrolled in the GCSC of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

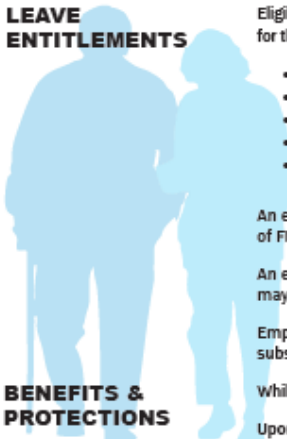
“Outpatient Status” with respect to a Covered Servicemember who is a current member of the Armed Forces means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Veteran” is defined by 38 U.S.C. § 101.

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

## LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

## ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

## REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

## EMPLOYER RESPONSIBILITIES

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

## ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627

**www.dol.gov/whd**

U.S. Department of Labor | Wage and Hour Division

