

FAMILY AND MEDICAL LEAVE ACT

Consistent with the federal Family and Medical Leave Act of 1993 (“FMLA”), the Board of Education recognizes the right of eligible employees to take up to twelve (12) weeks of unpaid leave during any twelve (12) month period for certain family and medical reasons (“Basic FMLA Leave”), and to take up to 26 weeks of unpaid leave in a single 12-month period to care for a military covered servicemember who has a serious injury or illness that incurred in the line of duty (“Military Caregiver FMLA Leave”). Any such leave shall be provided in accordance with FMLA, applicable Questar policies and collective bargaining agreements.

I. Eligible Employees

In order to be eligible for leave under FMLA, a Tech Valley High School employee must (a) have worked for Tech Valley High School for at least 12 months, and (b) have worked at least 1,250 hours in the immediately preceding 12 months. Though not required to do so by law, Tech Valley High School, in its discretion, has chosen to extend the benefits of this FMLA policy to all employees who meet the requirements of (a) and (b) above, regardless of whether such employees are employed at a worksite where fifty (50) or more employees are employed by Tech Valley High School within seventy-five (75) miles of the worksite.

In accordance with FMLA, a full-time classroom teacher is presumed to meet the 1,250 hour requirement, in the absence of evidence to the contrary. “Teacher” is defined by FMLA and includes an employee employed principally in an instructional capacity whose principal functions is to teach and instruct students. The term “teacher” does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

II. Reasons for Leave

Eligible employees must be taking Basic FMLA Leave for one of the following reasons:

(a) To care for the employee’s child after birth (so long as such leave concludes within 12 months from the date of the child’s birth) or the placement for adoption or foster care (so long as such leave concludes within 12 months from the date of the child’s placement);

(b) To care for a spouse, child or parent with a serious health condition;

(c) For the serious health condition of the employee that make the employee unable to perform the functions of his/her job; and

(d) For specific exigent circumstances arising when an employee’s spouse, child or parent is on active military duty, or is called to active military duty. “Exigent circumstances” are defined by FMLA and include, by example, attending certain military events, arranging for alternative childcare, addressing certain legal and financial arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees must be taking Military Caregiver FMLA Leave to care for a covered servicemember (as defined by FMLA) who is the employee’s spouse, child, parent, or other next-of-kin, and who has a serious injury or illness.

A “serious health condition” is defined by the FMLA and includes an illness, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the function of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

A “serious injury or illness,” in the case a covered servicemember, is defined by FMLA and includes an injury or illness that incurred in the line of active duty that may render the person medically unfit to perform the duties of the person’s office, grade, rank or rating.

III. Period of Leave

During each single 12-month period, an eligible employee is limited to a combined total of 26 weeks of Basic FMLA Leave and Military Caregiver FMLA Leave, of which no more than 12 weeks may be attributable to Basic FMLA Leave. For purposes of calculating such 12-month period, the period shall be measured forward from the date on which an eligible employee first uses leave under FMLA. For example, if an employee first takes leave under FMLA starting on November 15, 2006, then the 12-month period will run from November 15, 2006 through November 14, 2007.

In certain instances, spouses who are both employed by Tech Valley High School may be entitled to only an aggregate total of 12 or 26 weeks of leave under this policy, as applicable.

IV. Procedure for Requesting Leave

When such leave is foreseeable, an employee wishing to take leave under FMLA shall notify the Questar III Director of Human Resources of his/her request for such leave, in accordance with procedures established by Tech Valley High School, at least 30 days prior to the date when the leave is to begin. If such leave is not foreseeable, then notice shall be given as early as is practical.

Employees must provide sufficient information in order for Tech Valley High School to determine if the requested leave qualifies under FMLA, and the anticipated timing and duration of such leave. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

V. Notification of Eligibility & Designation of FMLA Leave

Absent extenuating circumstances, Tech Valley High School will notify an employee in writing of his/her eligibility for leave under FMLA within five business days after the employee submits his/her request for leave, or after Tech Valley High School is otherwise aware of the employee’s need for such leave. Such notice will specify any additional information required as well as the employee’s rights and responsibilities while on such leave. If Tech Valley High School determines that an employee is not eligible for leave under FMLA, Tech Valley High School will notify the employee and provide a reason for the ineligibility.

Tech Valley High School also will inform an employee if his/her leave will be designated as leave under FMLA and the amount of leave counted against the employee’s FMLA leave entitlement. If Tech Valley High School determines that the requested leave is not FMLA leave, Tech Valley High School will notify the employee and provide a reason.

VI. Use of Accrued Leave Time Under FMLA

Employees shall be required to use available sick leave for Basic FMLA Leave and/or Military Caregiver FMLA Leave before unpaid leave under FMLA is made available to them. Such sick leave shall be counted against the employee's FMLA leave entitlement. Up to twelve (12) weeks of unpaid childrearing leave requested by an eligible employee under a collective bargaining agreement may be counted against the employee's FMLA leave entitlement. Notwithstanding any other leave policies, unpaid leaves designated as FMLA leaves are not subject to approval of the Board.

If an employee chooses, or Tech Valley High School requires an employee to use accrued paid leave while taking leave under FMLA, such employee must comply with any applicable collective bargaining agreement or other applicable paid leave policy.

VII. Maintenance of Health Benefits

Tech Valley High School shall maintain group health insurance coverage for any employee on FMLA leave, whenever such insurance was provided before the leave was taken, on the same terms as if the employee had continued to work. If necessary, arrangements will be made for employees to pay their share of health insurance premiums while on leave. Tech Valley High School may, as permitted by the FMLA, recover premiums paid by Tech Valley High School to maintain an employee's health insurance coverage if that employee fails to return to work from FMLA leave.

VIII. Intermittent Leave

In certain circumstances, FMLA leave may be taken intermittently or on a reduced schedule basis, rather than in one block. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

An eligible employee may use intermittent or reduced schedule leave:

(a) Because of the employee's own serious health condition, to care for a parent or child with a serious health condition, or for Military Caregiver FMLA Leave if there is a medical need for such leave and such medical need can be best accommodated through leave on an intermittent or reduced schedule basis; or

(b) For Basic FMLA Leave due to exigent circumstances arising when an employee's spouse, child or parent is on active military duty, or is called to active military duty.

An eligible employee may take intermittent leave or reduced schedule leave after the birth or placement of a healthy child, only if Tech Valley High School agrees. Special rules apply if an instructional employee desires to take intermittent or reduced schedule leave.

Employees requesting intermittent or reduced schedule leave must attempt to schedule their leave so as not to disrupt Tech Valley High School's operations. Tech Valley High School may, in certain circumstances, assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

IX. Return from Leave

Except as otherwise provided by FMLA, an employee who takes leave under FMLA will be able to return to the same job or a job with equivalent pay, benefits and other employment terms. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of such leave.

In addition, special rules apply if a teacher desires to take FMLA leave near the end of an academic term.

Prior to returning from FMLA leave, Tech Valley High School may require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition.

Failure to return from any leave may result in the employee's termination.

X. Enforcement

FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under FMLA. FMLA does not affect any Federal or State law prohibiting discrimination. An employee who disagrees with any determination by Tech Valley High School regarding a request for leave, or who believes that he or she has been retaliated against for requesting or taking FMLA leave, may file a complaint with the U.S. Department of Labor or commence a private lawsuit.

XI. Notice of Policy

Tech Valley High School shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of FMLA, including information concerning enforcement of the law. A copy of this Board Policy shall be distributed to current employees and to each new employee upon hire.

ADOPTED: 12/18/07
REVISED: 05/14/09
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References:

29 USC §§ 2601-2654 (Family and Medical Leave Act of 1993)
29 CFR Part 825