GBN-R2 MAINE FAMILY MEDICAL LEAVE ADMINISTRATIVE PROCEDURE

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This administrative procedure covers the main provisions of the Maine Family Medical Leave Act. The school unit will analyze each employee request for leave to determine whether they are eligible under the Federal and/or State statute. When an employee is eligible for leave under both the Federal and State statutes, the applicable law with regard to each benefit shall be the one that provides the greater benefit (usually Federal FMLA).

I. ELIGIBILITY

To be eligible for Maine Family Medical Leave, employees must work at a site where there are 15 or more employees of a school board. An employee must have been employed by the same employer for 12 consecutive months and not taken such leave within the immediately preceding 24-month period or have used less than 10 weeks of family medical leave.

Under the Maine Family Medical Leave Act, an eligible employee is entitled to up to 10 weeks of leave during a 24-month period for the following reasons:

I. Serious health condition of the employee;

II. Birth of the employee's child or the employee's domestic partner's child;

III. Placement of a child 16 years of age or less in connection with the adoption of the child by the employee or the employee's domestic partner;

IV. Serious health condition of a child, domestic partner's child, parent, sibling, domestic partner or spouse;

    I. 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;

V. The donation of an organ of the employee for a human organ transplant; or

VI. The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child is a member of the state military forces as defined in Title 37-B, section 102, of the Maine Revised Statutes, or of the United States Armed Services, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

For the purpose of this procedure, "sibling" means a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.

I. DOMESTIC PARTNER DEFINED

For the purpose of determining eligibility for Maine Family Medical Leave, "domestic partner" means the partner of an employee who:

I. Is a mentally competent adult as is the employee;

II. Has been legally domiciled with the employee for at least 12 months;

III. Is not legally married to or legally separated from another individual;

IV. Is the sole partner of the employee and expects to remain so;

V. Is not a sibling of the employee; and

VI. Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements, or joint ownership of real or personal property.

III. ADMINISTRATION

I. The school unit may require certification from a physician to verify the amount of leave requested. An employee who in good faith relies on treatment by prayer or spiritual means, in accordance with the tenets and practice of a recognized church or religious denomination, may submit certification from an accredited practitioner of those healing methods.

II. An employee requesting leave shall provide at least 30 days' notice of the intended dates upon which the leave will commence and terminate, unless prevented by medical emergency from giving required notice.

III. Any leave taken for Maine Family Medical Leave qualifying purposes, including leave taken under other applicable statutes, employment policies, and collective bargaining agreements or contracts, shall also be considered leave under Maine Family Medical Leave and shall be applied to an employee's 10-week Maine Family Medical Leave entitlement every 24-month period. When paid leave taken for Maine Family Medical Leave qualifying purposes is exhausted, the balance of Maine Family Medical Leave shall be unpaid. **[OPTIONAL: The school unit and employee may negotiate for more or less leave, but both parties must agree.]**

IV. During Maine Family Medical Leave, an employee shall be permitted to continue his/her medical insurance plan, providing the employee remits the monthly premium to the Superintendent's Office no later than the first day of the month for which the premium is due. **[OPTIONAL: The school unit and employee may negotiate for the school unit to maintain benefits at the school unit's expense for the duration of the leave.]**

V. Upon an employee's return to work, he/she will be restored to his/her previous position or to a position with equivalent seniority status, benefits, pay, and other conditions and terms of employment.

VI. An employee taking Maine Family Medical Leave for his/her own serious health condition may be required to submit certification that he/she is fit to return to work and is able to perform the functions of the position.

VII. If at the end of the allowable leave under Maine Family Medical Leave the employee is unable to return to work because of his/her own serious health condition, the Superintendent and School Board may consider a request for extension of unpaid leave and benefits on a case-by-case basis. **[OPTIONAL: Failure to return to work upon the expiration of Maine Family Medical Leave may subject the employee to immediate termination unless such an extension is granted.]**

VIII. An employee who is not eligible for Maine Family Medical Leave may be eligible for federal Family and Medical Leave.

LEAVE TAKEN INTERMITTENTLY OR ON A REDUCED LEAVE SCHEDULE

Subject to the other requirements of this policy, leave taken intermittently or on a reduced leave schedule (i.e., a leave schedule that reduces the usual number of hours per workweek or hours per workday of an employee) may be taken subject to the following:

I. Leave for birth or placement related to adoption may not be taken intermittently or on a reduced schedule unless agreed to by both employer and employee;

II. Leave for a serious health condition of the employee or their child, domestic partner's child, parent, domestic partner or spouse, or for organ donation by the employee may be taken intermittently or on a reduced leave

schedule when medically necessary;

III. The taking of leave intermittently or on a reduced leave schedule may not result in a reduction in the total amount of Maine Family Medical Leave to which the employee is entitled beyond the amount of leave actually taken; and

IV. If an employee requests intermittent leave or leave on a reduced leave schedule for a serious health condition of the employee or their child, domestic partner's child, parent, domestic partner or spouse, or for organ donation by the employee that is foreseeable based on planned medical treatment, the employer may require the employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that 1) has equivalent pay and benefits, and 2) better accommodates recurring periods of leave than the regular employment position of the employee.

Legal Reference:

- 26 MRSA § 843 et seq.

Adopted:

- March 8, 2022

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