

7.4800 EMPLOYEE LEAVE

Legal reference: G.S. 95-28.3
Family and Medical Leave Act of 1993, as amended
U.S.C.S. §260l
29 C.F.R. Part 825, Code of Federal Regulations, Title 29
National Defense Authorization Act of 2008, Pub. L. 110-181, § 585
Uniformed Services Employment & Reemployment Rights Act, 38 U.S.C. 4301 *et seq.*
G.S. 115C-12, 47, -302.1(g), -302.1(g1)
16 N.C.A.C. 6C .0406

I. PAID TIME OFF (“PTO”)

In addition to the designated holidays and other non-school days in each year’s school-year calendar, all employees of the Falls Lake Academy Board of Directors shall earn one PTO day for each calendar month of their annual employment contract: 10-month employees earn 10 days each year, 11-month employees earn 11 days each year, 12-month employees earn 12 days each year.

The Board offers PTO days in lieu of sick or personal leave.

PTO days may be taken by employees only according to the following provisions:

- PTO days may be taken at any time during the school year the employee chooses to take them. [Note one exception: employees must obtain approval of the Principal before taking PTO days during designated teacher workdays. Failure to do so can result in disciplinary action.]
- Except in cases of unexpected illness or emergency circumstances, employees must give advance notice before taking a PTO day. Employees are asked to give as much notice as possible in order to give the administration time to arrange classroom and/or duty assignment coverage.
- The total number of an employee’s contractually earned PTO days for each year is available to that employee at the beginning of each school year.
- Unused PTO days roll over to the subsequent school year, except that employees may only accumulate a maximum of 30 unused PTO days. Beyond that, unused PTO days are altogether forfeit.
- FLA does not reimburse employees for unused PTO days while employed or upon termination of employment for any reason.
- When an employee exceeds his/her annual “allotment” of PTO days and has none accumulated, each absence for the remainder of that school year must be taken without pay.

II. FLEX LEAVE

The Principal has the authority to arrange for flex leave days and/or portions of days when an employee requests it. In such cases, the employee would be allowed to be absent without use of his/her PTO days allotment, and would arrange to work on another day and/or at another time with the Principal’s approval. Principals are instructed to keep this practice to an acceptable minimum, and to approve it only when the circumstances clearly favor it.

III. VOLUNTARY SHARED LEAVE

FLA employees may “donate” leave under the voluntary shared leave provision of this policy when another employee encounters an emergency and/or extreme situation requiring his/her absence from work for an extended time past the point where he/she exhausts his/her PTO days allotment:

- Such donation of leave time is strictly voluntary; the donating employee permanently loses access to donated leave days.
- Donated leave time must come from the donating employee’s accumulated days; no employee may donate any part of the current year’s PTO allotment.
- No employee may donate more than five accumulated PTO days in any given year.
- A receiving employee may receive donated days of voluntary shared leave from multiple donors.

IV. PARENT INVOLVEMENT LEAVE

The Board supports and recognizes the value of North Carolina’s legal requirement directing employers to provide leave time for parents of school-age children to participate in school visits, teacher conferences, and other instances of child involvement (G.S. 95-28.3). FLA Principals shall approve requests for Parent Involvement Leave according to the following provisions:

- Parent Involvement Leave must be requested in writing not less than three days in advance.
- Requests for Parent Involvement Leave must be approved by the Principal.
- Each employee shall be entitled to a maximum of four hours (one-half day) unpaid Parent Involvement Leave each year, regardless of the number of children the employee has. Limited additional paid leave for the purpose of parent involvement may be negotiated under Section II of this policy, “Flex Leave,” in situations where the circumstances warrant a more intense level of active involvement.
- Employees may be requested to furnish written verification from the child’s school that the FLA employee approved for Parent Involvement Leave did, indeed, attend or was otherwise involved at the school during the time of that leave.
- Parent involvement leave not taken within the fiscal year of employment shall be forfeited.
- Employees shall not be entitled to payment for unused Parent Involvement Leave upon termination of employment by decision of either the employee or the school.
- The Board shall not discharge, demote, or otherwise take adverse employment action against any employee for making request or utilizing the provisions of this policy.

V. FAMILY AND MEDICAL LEAVE

All eligible employees shall be provided with leave as required by the federal Family and Medical Leave Act of 1993 (FMLA) and applicable state laws and State Board of Education policies. The FMLA allows eligible employees to take job-protected unpaid leave, or to substitute all or part of the period of FMLA leave with accrued PTO days, for up to a total of 12 workweeks (26 weeks in certain cases) in any 12-month period for certain qualifying conditions or events. The employee may continue to participate in the school’s group insurance plan while on FMLA leave.

This policy is intended for guidance only and is not intended to alter or expand the school’s responsibilities beyond the requirements of law. If any provision of this policy is inconsistent with federal law or regulation, the federal rule must take precedence.

The Board strictly prohibits interfering with, restraining, or denying the ability of any employee to exercise any right provided by the FMLA. The Board also strictly prohibits any type of discrimination against or discharge of an employee who has filed a complaint with regard to the FMLA.

A. Definitions

1. Serious Health Condition: A serious health condition is an illness, injury, 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 functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

2. Continuing Treatment: Subject to certain conditions, the continuing treatment requirement in the above definition of "serious health condition" may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment or incapacity due to pregnancy or a chronic condition. Other conditions may also meet the definition of continuing treatment.

3. Qualified Family Member: A qualified family member is defined as an employee's spouse, child or parent.

4. Instructional Personnel: For purposes of this policy, instructional personnel are considered to be teachers, athletic coaches, special education assistants, and any other employee whose principal function is to teach and instruct students.

5. Qualified Military Service Exigency: A military service exigency that qualifies for FMLA leave must be defined in accordance with federal regulations. Qualified exigencies may include:

- a. short notice deployment;
- b. military events and related activities;
- c. school and childcare activities;
- d. financial and legal arrangements;
- e. counseling;
- f. rest and recuperation leave;
- g. post-deployment activities; and
- h. additional activities agreed upon by the Board and the employee.

6. Other Terms: Unless otherwise noted, all terms in this policy must be defined in accordance with 29 C.F.R. pt. 835.

B. Eligibility

Employees are eligible for unpaid FMLA leave if they have:

1. been employed by the school system for at least 12 months (but not necessarily consecutively); and
2. worked at least 1,250 hours during the previous 12 months.

C. Qualifying Conditions

Except in cases of leave to care for a covered service member with a serious illness or injury, an eligible employee is entitled to a total of 12 workweeks of FMLA leave during any 12-month period for any one or more of the following reasons:

1. the pregnancy or birth and first-year care of the employee's child;
2. adoption of a child by employee or foster placement of a child with the employee;

3. a serious health condition of the employee or the employee's spouse, child, or parent;

4. a qualifying exigency arising out of the fact that the spouse or a son, daughter, or parent of the employee is on or has been notified of an impending federal call to active duty in the National Guard or Reserves (not in the regular Armed Forces) in support of a contingency operation; or

5. to care for a qualified or covered family member who has incurred a serious injury or illness in the line of duty while on active duty in the Armed Forces, provided that such injury or illness renders the family member medically unfit to perform his or her office, grade, rank or rating. Leave under this provision may be taken by an employee who is a spouse, son, daughter, parent, or next of kin of the service member for up to 26 weeks.

D. Determining the 12-month FMLA Leave period

The 12-month period during which an employee is eligible for FMLA leave shall be from July 1 to June 30, EXCEPT, the period for leave to care for a qualified or covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later.

E. Entitlement to FMLA Leave

Eligible employees may take leave for qualifying conditions as follows:

1. Medical leave for serious health conditions: an employee may take medical leave for his/her own serious health condition or that of a qualified family member for only a combined total of 12 workweeks during a 12-month period. Such leave may be taken intermittently or on a reduced leave schedule as is medically necessary.

2. Family leave for pregnancy or birth of a child or placement of a child for foster care or adoption: an employee may take leave for the pregnancy or birth of his/her child, placement of a child for foster care with him/her, or adoption of a child by him/her for only a combined total of 12 consecutive workweeks during the 12-month period immediately following such birth, foster care placement, or adoption. Eligibility for such leave expires 12 months from the birth, foster care placement, or adoption of the child. Such leave must be used in a single block of time unless the Board agrees to another arrangement.

3. Qualified military service exigency: an employee may take leave for a military service exigency for only a combined total of 12 workweeks during a 12-month period. Such leave may be taken intermittently or on a reduced leave schedule.

4. Leave to care for injured service member: an employee who is a covered family member may take leave to care for a qualified family member who is an injured service member for a combined total of no more than 26 workweeks during a single 12-month period. Such leave may be taken intermittently or on a reduced leave schedule. If combined with other types of FMLA leave, the total leave taken in a single 12-month period still may not exceed 26 weeks.

5. Spouses employed by the school: Spouses of an employee who are both employed by the school and eligible for FMLA leave are limited in the amount of family leave they may take for the birth and care of a newborn child, for the placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks for all types of FMLA leave, or 26 weeks if leave to care for a covered service member with a serious injury or illness is also used.

F. Intermittent or Reduced Work Schedule

1. Subject to other provisions set forth in this policy, FMLA leave may be taken on an intermittent or reduced leave schedule for a serious health condition of the employee or qualified family member, for

a qualifying military service exigency, injury of a covered or qualified service member, or as otherwise provided herein. The employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the school. Whenever possible, employees should discuss scheduling with their immediate supervisor prior to scheduling any medical treatment in order to accommodate the employee's work schedule.

2. An employee requesting intermittent or reduced leave time for medical treatment of a serious health condition may be required to give the reasons for the intermittent or reduced leave schedule and the schedule for treatment.

3. To better accommodate an employee's need for intermittent or reduced leave for a serious health condition, the school may require an employee to take an alternative position during the period of leave. The alternative position must have equal pay and benefits, but it does not have to have equivalent duties.

4. Intermittent leave may be taken in increments of full- or half-days only.

5. Instructional personnel are subject to special rules for taking intermittent or reduced leave. (See section G.)

Instructional employees may use intermittent or reduced-schedule leave only when the employee and his/her supervising Principal have reached an agreement on how the leave will be used.

G. Continuation of Health Benefits

Health care coverage and benefits will be continued for the duration of FMLA leave on the same conditions as would have been provided if the employee had continued working.

Employees do not have the right to the accrual of earned benefits during the leave. If an employee takes intermittent or reduced leave, he or she has the right to maintain the same health care benefits, but earned benefits may be reduced in proportion to hours worked where such a reduction is normally based upon hours worked.

Falls Lake Academy, Inc. may recover from the employee the cost of health insurance premiums paid on behalf of the employee while the employee was on FMLA leave if the employee does not return to work after leave, so long as the reason for not returning does not relate to a serious health condition or to circumstances beyond the employee's control.

H. Record-Keeping Requirement

The Principal shall maintain records of the following information with regard to employees' requests and/or use of FMLA leave for at least three years:

1. basic payroll and identifying employee data;
2. dates (or hours) of FMLA leave taken by each employee; and
3. premium payments of employee benefits.

Medical information, such as that relating to medical certifications, also shall be maintained in the employee's secure personnel file in confidential medical records.

Copies of employee notices, including general and specific notices, as well as any other documents describing employee benefits or policies and records of disputes between the school and any employee regarding designation of FMLA leave shall also be maintained for at least three years.

I. Outside Employment

An employee who is on FMLA leave may not engage in self-employment or employment for any other employer while on continuous leave. Falsifying records and failure to correct records known to be false are violations of this policy and shall result in discipline, which may include termination of employment.

VI. PROFESSIONAL LEAVE

The Board recognizes that the effectiveness of the school and its staff is enhanced by a balanced program of relevant professional development. Consequently, the Board grants authority to each supervising Principal to approve or disapprove employee requests for Professional Leave in accordance with the following provisions:

1. All requests for Professional Leave must be submitted in writing not less than three school days prior to the first projected day of the requested leave.
2. Employee-generated requests for Professional Leave may be approved by a supervising Principal for a period of time not to exceed three workdays.
3. FLA professional development funds may not be used for individual employee Professional Leave unless the employee is assigned such participation by the Principal. However, substitute coverage may be funded by either FLA substitute teacher funds or FLA professional development funds, at the Principal's discretion.

VII. MILITARY LEAVE

An employee shall be eligible for all the considerations of military leave in accordance with the federal Uniformed Services Employment and Reemployment Act (USERRA).

Employees are encouraged to schedule short periods of required active duty during vacation periods so as not to interfere with regular duties of employment. If an employee is going to be absent due to military obligations, the employee must provide advance written notice, except in cases of emergency assignment or other conditions that make such advance notice impossible or unreasonable.

For leave periods exceeding 30 days, the employee must also provide written documentation verifying the employee's requirement to report for performance of military duty.

In accordance with State Board of Education policy, an employee may take up to 15 workdays of paid military leave per federal fiscal year, which runs from October 1 through September 30. After an employee has used all of his/her paid military leave, the employee may choose to use any accumulated PTO days during a period of military service in excess of 15 paid workdays per federal fiscal year.

VIII. LEAVES OF ABSENCE (Leave Without Pay)

Leaves of Absence are governed by the following provisions:

1. Leaves of Absence must be approved in advance by the Board; they must therefore be submitted in writing no later than five days prior to any Board meeting at which the request will be considered. If the request is submitted closer to a Board meeting than five days, the employee may be required to re-submit the request in time to meet the five-day prior deadline before the next Board meeting.

2. A Leave of Absence may be requested and granted by the Board for any length of time, to begin and end at any times mutually agreed upon by the employee and the Board.

3. All Leaves of Absence, regardless of length of time, are unpaid leave. The employee shall not be paid any part of his/her salary during the agreed-upon period of time covered by the Leave of Absence approved by the Board.

4. Employees on Leaves of Absence may still be covered by the State Health Plan while on Leave, but all Health care insurance premium costs are the responsibility of the employee while on approved Leave of Absence.

5. At the end of the period of time designated by the Board's approval of any Leave of Absence request, the employee shall be entitled to return to work at the same rate of pay and benefits as he/she would otherwise be eligible for if he/she had not taken Leave. There is no guarantee, however, that his/her job title or description would remain the same – he/she may be assigned to another job with a different title, at the discretion of the Principal to whose supervision the employee is assigned upon his/her return to work.

6. In the case that an approved Leave of Absence is granted by the Board for the purpose of seeking and/or earning an advanced degree and/or additional certification, the employee shall be eligible for any increase in salary and/or benefits which accompany the new degree and/or certification if, indeed, the employee completed the requirements for such degree and/or certification while on leave.

IX. UNAPPROVED ABSENCE FROM WORK

Employees of Falls Lake Academy are expected to be at work whenever scheduled to be at work unless unexpectedly ill or faced with unforeseen circumstances requiring them to be absent. In cases where an employee remains absent from work without approval past the limits of time specified in the provisions of this policy for the type of Employee Leave relevant to his/her situation, all such absences shall be taken on an unpaid basis unless the Board specifically takes action otherwise.

Following the fifth consecutive unpaid, unapproved workday absence, the employee's supervising Principal shall notify the Board chair of the employee's non-compliance status with regard to this policy. The Board chair shall then be responsible for issuing a notice of suspension without pay which shall be in effect until the Board next meets, when the employee's status shall be reviewed and decided by Board action. In this case, the Board shall review and take action with regard to the employee's continuing employment or termination, completely and entirely as it deems fit and appropriate under the circumstances.