

The Board of Education met in regular session Tuesday, December 10, 2013, at 6:00 p.m. in the Board Room at the Board of Education Office, 201 North Forest Avenue, Independence, Missouri.

Members Present: Mrs. Ann Franklin, President  
Dr. Matt Mallinson, Vice President  
Mrs. Jill Esry, Treasurer  
Mrs. Jana Waits, Director  
Mr. Ken Johnston, Director  
Mrs. Denise Fears, Director  
Mr. Greg Finke, Director

Also Present: Dr. Dale Herl, Superintendent  
Dr. Dred Scott, Dr. Lance Stout, Dr. Brad MacLaughlin, Dr. Beth Savidge,  
Dr. Linda Gray Smith, Mr. Blake Zachary, Mrs. Sherry Potter, Mr. Bob  
Robinson, Mrs. Nancy Lewis, INEA, PTA, interested patrons and staff, and  
Mrs. Annette Miller.

The meeting was called to order by the President, Mrs. Ann Franklin, and minutes of the meeting were recorded by the secretary, Mrs. Annette Miller. Mrs. Franklin stated that the Van Horn JROTC cadets were in attendance and would present the colors followed by the Pledge of Allegiance.

Following the JROTC's presentation, Dr. Herl recognized Lt. Col. Michael Byrd and Sgt. Allen Roberson for their outstanding commitment in working with the JROTC students at Van Horn High School. The program has grown in the last four years from 63 students to 172 students. Lt. Col. Byrd said it is rewarding to see how the cadets develop into outstanding students and individuals. Dr. Herl presented Lt. Col. Byrd with a plaque in honor of the JROTC being selected as the Character of Month group.

Jana Waits made the motion to approve the December 10, 2013 Agenda as presented. The motion was seconded by Ken Johnston and unanimously approved by the Board of Education.

Mr. Gene Hoppe, 16508 Crackerneck Road, Independence, MO, addressed the Board of Education. Mr. Hoppe requested the total of Kathy and Matt Mallinson's donation to restore Van Horn High School's theatre.

Netty Doyle, theatre instructor at Van Horn High School, expressed her appreciation to the Board members that recently attended her Acting III class's performance of "Teen Angel" on November 20th.

Dr. Herl stated that the list of bills is very typical for this time of year. However, the District's enrollment does continue to climb and this is a great problem to have. He said the Administration is recommending letting bids to replace coils on two HVAC units at the Aquatic Center.

Denise Fears made the motion to approve the December 10, 2013 Consent Agenda as printed.

1. Minutes of November 12, 2013
2. Approval of December 10, 2013 List of Bills totaling \$7,749,891.25
3. Personnel Recommendation #12
  - A. Resignation of Certificated Staff at the End of the 2013-2014 School Year
    1. Brandy Von Holten, Biology/Truman High School

The motion was seconded by Jill Esry and unanimously approved by the Board of Education.

Dr. Herl said Acuity B window closes tomorrow. He said that three tests are given throughout the year prior to the MAP or EOC testing. This provides very valuable information for teachers and staff so that checks can be made to assure if the taught and written curriculum are the same. Teaching and learning continues to be strong and the instructors are doing a great job. Data walls indicate where students are and this allows for monitoring and adapting what is being taught. The District is the recipient of a grant to fund an SRO at Abraham Mallinson and Sugar Creek Elementary Schools. It is good for students to have an opportunity to interact with the Police Officers as it creates a working relationship. The District is working with Cenergistics, Inc. in order to make the District operate more energy efficiently. Gary Bressman is a Cenergistics employee and he works closely with District staff on energy efficiency. Mr. Bressman will present information on the program at the January Board of Education meeting.

The Supreme Court handed down their decision on the Kansas City Missouri School District student transfer case filed by five area school districts. They have ruled that the transfers can occur for unaccredited school district

students to transfer to accredited school districts. Independence was part of this lawsuit. Transfers are already occurring on the St. Louis side of the state. As of January 1, the Normandy School District may go bankrupt due to the additional costs involved with the transfers. The area school districts are still working through the Supreme Court's ruling. Transfers in this area could occur in 2014-15 school year. DESE provided guidance that transfers would not occur until then.

Several new Business Items were presented for the Board of Education's consideration.

Dr. Herl stated that this is the second and final reading for changes to three Board of Education Policies – 2240, 2710, and 4321.

Greg Finke made the motion that the Board of Education approves this as the second and final reading of changes to Board of Education Policies 2240, 2710, and 4321. The motion was seconded by Jana Waits and unanimously approved by the Board of Education. (Pages 10712-1715)

Dr. Herl explained that changes need to be made to Regulations 2710 and 4321 due to the Policy changes.

Jana Waits made the motion that the Board of Education approves adopting the changes to Board of Education Regulations 2710 and 4321 as presented. The motion was seconded by Jill Esry and unanimously approved by the Board of Education. (Pages 10716-10728)

Dr. Herl said the District needs to remodel the kitchen at Korte Elementary School in order to make the area more efficient for the Nutrition staff that serves over 600 students at Korte. He said that capital outlay money will be used for this project.

Matt Mallinson made the motion that the Board of Education approves the letting of bids for remodeling of the kitchen at Korte Elementary School. Denise Fears seconded the motion and it was unanimously approved by the Board of Education.

Dr. Herl reported that there are four houses adjacent to Van Horn High School that the District owns. Two of the houses are vacant and need to be demolished. This will allow the District to create additional parking space at the high school. He stated that the two other houses are rented and will be considered for demolition later.

The motion was made by Matt Mallinson that the Board of Education approves the letting of bids for demolition of surplus property at 9531 East Winner Road and 9533 East Winner Road. The motion was seconded by Ken Johnston and unanimously approved by the Board of Education.

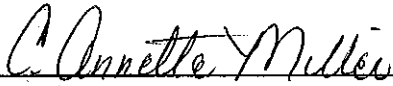
Dr. Herl stated that there is a lot of unused space on the third, fourth, and fifth floors at The Ennovation Center that could be used for tenant space. At this time the Administration is recommending the approval of the bid from Zimmerman Construction Company, Inc. at a cost of \$237,500.00 to prepare space for a new tenant. This will be a revenue producing issue and an agreement is in place pending the completion date.


The motion was made by Jill Esry, second by Denise Fears, that the Board of Education accepts the base bid from Zimmerman Construction Company, Inc. for tenant space finishing at The Ennovation Center for a cost of \$237,500.00. The motion was unanimously approved by the Board of Education.

There being no further information to come before the Board, Greg Finke made the motion, second by Jana Waits, to adjourn the meeting and go into executive session for legal, real estate, personnel, and student issues at 6:30 p.m. The motion was approved as follows:

Ayes: Ann Franklin  
 Matt Mallinson  
 Jill Esry  
 Jana Waits  
 Ken Johnston  
 Denise Fears  
 Greg Finke

Absent:

  
 Secretary

  
 President

**STUDENTS****Policy 2240**  
**(Regulation 2240)****Admission and Withdrawal****Admission and Tuition – Nonresident Students**

Nonresident students will be permitted to attend the District schools only upon the processing of the student's Request for Waiver of Proof of Residency (Form 2230.1) and payment in full of tuition as determined by District representative in their sole discretion, and provided the student is not barred from enrollment by provisions of the Safe Schools Act. (See Policy 2664.) Prior to the first day of school, the District must receive the full tuition payment as established by the Board, unless the student is exempt from tuition as required by law. All costs of transportation for any student admitted on a tuition basis will be the sole responsibility of the person enrolling the student, unless otherwise required by law. In no event shall the Independence School District be responsible for the transportation costs for a student admitted on a tuition basis. Tuition rates will be determined annually by the Board of Education on the basis of the per-pupil cost for the preceding year including operation, maintenance, and debt service of the schools.

In accordance with state law, the district will admit nonresident students ("transfer students") who reside in a Missouri school district that: (1) is located in the same or an adjoining county as the district (Jackson County, Missouri); and (2) is currently classified as unaccredited by the Missouri State Board of Education.

The unaccredited school district shall pay the full tuition for each semester before the transfer student will be enrolled or allowed to attend that semester, unless an alternative arrangement is made with the district and approved by the Board of Education. If a timely payment of tuition is not made, the transfer student shall not be entitled to attend the district.

Transfer students will be permitted to enroll in the district on a semester basis only. Transfer students will not be admitted during the term of a school semester. For the fall semester, applications will be accepted from January 1 to February 1. For the spring semester, applications will be accepted from October 1 through October 31. Late applications will not be considered. Students residing in an unaccredited district must submit an application by no later than January 1 for every school year they wish to attend the district, but students who have been admitted for the fall semester are not required to reapply for the spring semester.

Pursuant to guidance issued by the State Board, the district has adopted a procedure for establishment of class size and student-teacher ratios for all grade levels. The district will not enroll transfer students if enrollment would require the district to exceed its standards for class size and student-to-teacher ratios.

Within two (2) business days of enrollment in the District by state officials of a nonresident student pursuant to state statute, the Superintendent/designee will request the student's transfer and discipline records from all schools or facilities previously attended and from other state agencies and entities involved in the placement of the student within the twenty-four (24) month period preceding enrollment. The Superintendent/designee is authorized to share relevant portions of such

**Policy 2240**  
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student's transfer and discipline records with District employees who, based upon their duties, have a need to know such information. Such records will be maintained in confidence for purposes of maintaining discipline and for assistance to the student.

**REV. 12/13**

**STUDENTS****Policy 2710**  
**(Regulation 2710)****Student Welfare****Reporting Student Abuse**

The Board of Education believes that school staff members are in a unique position to assist children, families, and the community in dealing with the issue of child abuse and neglect. Child abuse is defined as any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means. Neglect is defined as the failure to provide the proper or necessary support, education, nutrition or medical, surgical or other care necessary for the child's well-being. Employees making reports of allegations of sexual abuse of a student will be provided immediate unrestricted use of communication technology and will be temporarily released from their work duties to make an immediate report.

If a school employee has a reasonable belief, including a report of abuse, to believe that a student has been or may be subjected to abuse or neglect, such employee and the Superintendent shall forward the information immediately upon receiving the information to the Children's Division. Thereafter, the Superintendent will investigate the allegation for the purpose of making decisions about the accused person's employment. Depending upon the specific facts, the District may place the alleged abuser on paid leave of absence; place the employee in a non-student contact position; initiate dismissal proceedings; or continue the employee in their present position pending outcome of the investigation.

Any school district employee, acting in good faith, who reports alleged sexual misconduct on the part of a school employee will not be disciplined or discriminated against because of such reporting.

The District will annually provide employee training, which will include but not be limited to current information concerning identification of the signs of sexual abuse in children as well as the identification of the danger signals of potentially abusive relationships between children and adults. This training will emphasize the importance of mandatory child abuse reporting, including the obligation to report suspected abuse by other mandated reporters. Employees will receive training on the need for and methods to create an atmosphere of trust so that students believe their school and school employees are available to discuss matters concerning abusive behavior.

**REV. 12/2013**

**PERSONNEL SERVICES****Policy 4321**  
**(Regulation 4321)****Absences, Leave and Vacation****Family and Medical Leave**

The Board of Education recognizes that leaves of absence are occasionally necessary due to family or medical reasons or in certain circumstances associated with service members' service in the Armed Forces. The District has adopted detailed procedures to ensure compliance with the Family and Medical Leave Act of 1993 (FMLA). As provided by District regulations, eligible employees are entitled to use up to twelve (12) workweeks of unpaid leave for family and medical reasons (up to 26 work weeks for covered events related to those serving in the Armed Forces). The Board of Education has designated a District administrator to act as FMLA Compliance Officer. As part of its compliance program, the District will notify each employee of the name, address and telephone number of the District's FMLA Compliance Officer and will provide a statement of commitment to adhere to FMLA regulations. The FMLA Compliance Officer will regularly evaluate the District's FMLA compliance to ensure fair and equitable opportunities for all eligible employees.

**Rev. 12/2013**

**STUDENTS****Regulation 2710****Student Welfare****Reporting Student Abuse****Procedure for Reporting Abuse and Neglect**

1. If notice of alleged child abuse or neglect is received, a report will be made to the Children's Division by telephoning the Abuse Hotline at 1-800-392-3738. The call will be logged with the date, time, and nature of the report., if the Children's Division declines to accept the report, the name of the CD representative; the date and report made must be documented.
2. When Children's Division (CD) representatives interview students on District property, a school staff member will be present. Children's Division representatives may not meet with a child at any school or childcare facility where abuse of the child is alleged to have occurred.
3. When Children's Division receives a report of suspected abuse involving a school employee, other than reports made under subsection (1), the Children's Division is required to notify the Superintendent. If the alleged perpetrator is the Superintendent, Children's Division will notify the Board President. However, if the report relates to spanking or the use of reasonable force to protect persons or property pursuant to Board policy, a report will be made to county law enforcement officials. The investigation into such report will be made by a law enforcement official in the county.
4. When the District and student involved request mediation of the child abuse situation in a school setting, the matter will be referred to the Office of Child Advocate.

**REV. 12/2013**

**PERSONNEL SERVICES****Regulation 4321****Absences, Leave and Vacation****Family and Medical Leave****A. ELIGIBLE EMPLOYEES**

Employees eligible for family and medical leave must:

1. Have been employed for a total of *at least* twelve (12) months (not necessarily consecutive); and
2. Have worked at least 1,250 hours during the twelve (12) months immediately preceding the commencement of the leave (for non-instructional staff and part-time instructional staff); or
3. Have been considered full-time (for instructional staff); and
4. Be employed at a work-site where the employer employs at least fifty (50) employees within a 75-mile radius.

All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining the employee's eligibility for FMLA leave.

**B. QUALIFYING REASONS FOR LEAVE**

An eligible employee may take unpaid leave for the following reasons:

1. The birth of the employee's child (leave must be concluded within one (1) year of the date of birth).
2. The placement of a child with the employee for adoption, or foster care when foster placement is pursuant to State action (leave must be concluded within one (1) year of the date of placement).
3. The care of the employee's child (including biological, adopted, or foster child, step-child, legal ward, or child of a person standing in *loco parentis*, who is either under age 18, or age 18 or older and is incapable of self-care because of mental or physical disability), spouse or parent (including a person who stood *in loco parentis* to the employee when the employee was a child -- but not parent "in-law"), who has a serious health condition.
4. The serious health condition of the employee that makes the employee unable to perform the essential functions of the employee's position



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5. Any qualifying exigency arising out of the fact the employee's spouse, son, daughter, or parent is a military member on covered active duty (or has been notified of an impending call or order to active duty) requiring deployment to a foreign country in support of a contingency operation. Such leave may include Rest and Recuperation leave up to a maximum of fifteen (15) calendar days.
6. Any qualifying exigency arising out a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty.
7. The care for a covered service member with a serious injury or illness, if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

**C. DEFINITIONS**

1. **Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves the following:
  - a. **Inpatient Care:** (overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.
  - b. **Continuing Treatment:** Continuing treatment \*\* by a health care provider\*\*\*, including the following:
    - i. **Incapacity and Treatment:** A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
      1. Treatment two or more times, within 30 days of the first day of incapacity, 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 care services under order of, or on referral by, a health care provider; or
      2. 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. The in-person treatment visit must take place within seven days of the first day of incapacity.
    - ii. **Pregnancy or Prenatal Care:** Any period of incapacity due to pregnancy, or for prenatal care (even if the absence does not last more than three days and the employee or family member does not receive treatment from a health care provider during the absence);

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iii. **Chronic Conditions:** Any period of incapacity or treatment for such incapacity due to a chronic serious health condition (even if the absence does not last more than three days and the employee or family member does not receive treatment from a health care provider during the absence). A chronic serious health condition is one which:

1. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
2. Continues over an extended period of time (including recurring episodes of a single underlying condition);
3. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

iv. **Permanent or Long-Term Conditions:** 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.

v. **Multiple Treatments:** 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 health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

c. **Exceptions:** Unless complications develop, a Serious Health Condition **does not** include cosmetic treatments, such as most treatments for acne or plastic surgery, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc. Treatment for substance abuse by a health care provider or on referral by a health care provider may be a serious health condition if the conditions of this policy are met. Absence due to use of the substance, rather than for treatment, does not qualify for FMLA leave.

d. **Current Service Member:** A serious injury or illness for a current service member includes any illness or injury that existed before the beginning of the member's active duty and which was aggravated by service in the line of duty on active duty in the Armed Forces.

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e. **Covered Veteran:** A serious injury or illness is one that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran and is:

- i. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or
- ii. A physical or mental condition for which the covered veteran has received a VA Service Rated Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or
- iii. A physical or mental condition that substantially impairs the veteran's ability to secure or follow substantially gainful occupation by reason of a disability or disabilities related to military service or would so absent treatment; or
- iv. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

2. **Treatment** - examinations to determine if a serious health condition exists and evaluations of the condition. "Treatment" does not include routine physical, eye, or dental examinations.

3. **Health Care Provider** - includes doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (for limited purposes), nurse practitioners, nurse-midwives, clinical social workers, so long as they are licensed (if required by state law) and are performing within the scope of their practice as defined under state law; Christian Science practitioners listed with the First Church of Christ, Scientist, Boston, Massachusetts; any health care provider from whom an employer or a group health plan's benefit manager will accept certification to substantiate a claim for benefits; a health care provider as defined above who practices in a country other than the United States and is licensed in accordance with the laws of that country.

4. **Regimen of Continuing Treatment** - A course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. A "regimen of continuing treatment" that includes the taking of over-the-counter medications such as aspirins, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

5. **Qualifying Exigency** - One of the following activities or conditions, occurring while the employee's spouse, son, daughter, or parent is on active duty in a foreign country or call to active

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duty status in the National Guard or Reserves:

- a. Short-notice deployment - notice is received seven days or less from date of deployment;
- b. Military events and related activities;
- c. Childcare and school activities - arranging for alternatives or changed circumstances;
- d. Financial and legal arrangements;
- e. Counseling;
- f. Rest and recuperation (15 days maximum);
- g. Post-deployment activities; and
- h. Additional activities agreed upon by the employer and employee.

6. Covered Service Members – Any **current** member of the Armed Forces, including the National Guard or Reserves, and any covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

7. Covered Veteran - An individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

8. Instructional Employee - A person employed principally in an instructional capacity, whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aids who do not have as their principal function actual teaching or instructing, or auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

#### **D. LENGTH OF LEAVE**

##### **All Employees**

1. General Rule: An eligible employee is entitled to up to twelve (12) workweeks\* of unpaid leave within a twelve-month period without loss of seniority or benefits. When both spouses in a family work for the District, they will be entitled to a total of twelve (12) weeks of unpaid leave (rather than weeks each) for the birth, adoption, or foster placement of a child, or to care for a parent with a serious health condition.

- The amount of leave available to an employee at any given time will be calculated by using the calendar year.

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- All leave taken under the policy and leave for any other reason that would qualify under FMLA (e.g., worker's compensation leave that qualifies as a serious health condition), will be counted against the employee's leave entitlement under FMLA. Employees will be required to run all FMLA leave concurrently with other leaves available to the employee.
- When an employee is not required to report for work for one or more weeks (e.g., instructional employees who do not report for work during Christmas/New Year holiday, or during the summer), such days will not count against the employee's FMLA leave.

2. Care of Covered Service Members Leave: An eligible employee is entitled to 26 workweeks of leave to care for a covered service member with a serious injury or illness during a single twelve-month period, which begins on the first day the eligible employee requests this type of FMLA leave. The employee may take leave to care for a covered service member and leave for one of the other FMLA-qualifying reasons; however, in no event may an employee take more than 26 weeks of leave in a single twelve-month period.

3. Instructional Employees—End of Term Exceptions

a. If an instructional employee\*\* seeks leave for any purpose, including the employee's own serious health condition, of at least three (3) weeks in duration and the requested leave would begin more than five (5) weeks prior to the end of the academic term (school semester), the District may require the employee to continue taking leave until the end of the school term, if the instructional staff member's return to employment would otherwise occur during the three (3) week period before the end of such term.

b. If the instructional employee seeks leave for any purpose other than the employee's own serious health condition, less than five (5) weeks prior to the end of the academic term, the District may require the staff member to continue taking leave to the end of the term, if the leave is greater than two (2) weeks in duration and the return to employment would occur within two (2) weeks prior to the end of the term.

c. If the instructional employee takes leave for any purpose other than the employee's own serious health condition, within three (3) weeks prior to the end of the term, and duration of the leave is greater than five (5) days, the District may require the staff member to continue the leave until the end of the term.

- When an employee is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement.

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**E. COORDINATION WITH EXISTING LEAVE POLICIES**

During a leave related to the employee's serious health condition, the employee shall exhaust all available paid sick leave, personal leave or vacation before continuing such leave on an unpaid basis.

During a family or medical leave provided under this policy for birth, placement of a child for adoption or foster care, or for care of a family member, an employee shall first exhaust all unused vacation or personal days before continuing such leave on an unpaid basis.

At the conclusion of a family or medical leave provided under this policy and regulation, an employee may elect to extend leave pursuant to the provision of other Board policies and regulations governing extended leave, so long as the employee is eligible for extended leave under such other policy or regulation. The amount of time taken for FMLA leave will be deducted from the period of leave available under other extended leave policies. Once the FMLA portion of the employee's leave has ended, and the employee has elected to continue on leave pursuant to another Board policy or regulation, the remaining portion of the leave will be governed by the provisions of the other policy or regulation with respect to compensation, benefits, reinstatement, and all other terms and conditions of employment as set forth in the other policy or regulation.

**F. CERTIFICATION**

The District shall retain the right to request a certification of the FMLA-qualifying need for leave from any employee making such a request. The procedure for providing such certification shall be as follows:

1.  **Serious Health Condition**  – When an employee requests a leave of absence for a FMLA-qualifying reason, the employee must submit to the Superintendent/designee, a written medical certification form (available in the Superintendent/designee's office). When the leave is for the employee's own serious health condition and District provides a list of the employee's essential job functions, the employee's health care provider must certify the employee is unable to perform an essential function of the employee's job.

a.  **Timing**  -- Upon receipt from the District, an employee has fifteen calendar days to return a complete and sufficient certification of the serious health condition. If the certification is incomplete or insufficient, as determined by the Superintendent/designee, the District shall state in writing the nature of the deficiency and grant the employee seven additional calendar days to provide the District with a complete and sufficient certification. Failure to provide such certification within the specified time period may result in denial or delay of leave.

b.  **Who May Contact Health Care Provider**  – In the event the District determines an employee's certification remains either incomplete or insufficient, after the employee has been

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c. notified of any deficiencies and been granted time to correct such deficiencies, the following individuals will be authorized to contact the employee's health care provider:

- i. The District's own health care provider;
- ii. Human resources professional;
- iii. Leave administrator; or
- iv. Administration official.

Under no circumstances will the employee's direct supervisor be permitted to contact the employee's health care provider to certify the employee's health condition. Should an employee deny the District the ability to communicate with the health care provider regarding an incomplete or insufficient certification, the employee will be denied FMLA leave.

d. **Second/Third Opinion** - The District reserves the right to require an employee receive a second (and possibly a third) opinion from another health care provider (at the District's expense) certifying the serious health condition of the employee or family member. Further, second and third opinions may be required for military caregiver leave certifications that are completed by health care providers, as defined in Section 825.125 of the FMLA, who are not affiliated with DOD, VA or TRICARE.

e. **Fitness for Duty** - Before returning to work, an employee who is on leave for the employee's own serious health condition, must submit to the Superintendent/designee a health care provider's written certification form that the employee is able to perform the essential functions of the employee's job. The process for verifying the employee's fitness to return to duty shall be the same as for the initial certification set out above. Failure to provide a complete and sufficient fitness for duty certification may result in the delay or denial of job restoration.

f. **Recertification** - During the employee's leave, the District may periodically seek a recertification, no less than once every thirty days, unless the duration of the leave is known to be longer, in which case the District will not seek recertification until the end of the known duration of FMLA leave. The general rule has three exceptions, which permit the District to immediately seek a recertification from the employee. These exceptions include the following: 1) the employee requests a leave extension; 2) the circumstances necessitating leave change; or 3) the District received information disputing the validity of an earlier certification.

g. **Intent to Return to Work** - The District may require an employee to periodically report on the employee's intent to return to work.

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h. **Family Relationship** - Employees requesting FMLA-qualifying leave related to a family member may be requested to provide reasonable documentation of the family relationship.

2. Qualifying Exigency – The District may require an employee to provide it with a copy of the covered military member’s active duty orders in support of a contingency operation, prior to permitting FMLA leave for a qualifying exigency. The District may also require the employee to certify, with reference to appropriate facts, that the reason for taking FMLA leave is permissible as it is one of the eight enumerated basis for taking qualifying exigency leave, as stated above. The process for any such certification shall adhere to the procedure outlined for serious health conditions, listed above. For Rest and Recuperation leave, the District may require a copy of the military member’s Rest and Relaxation leave orders, or other documentation issued by the military setting forth the dates of the military member’s leave.

3. Care for Covered Service Members – The District may require certification completed by the covered service member’s health care provider prior to permitting an employee to use FMLA for the care of a covered service member. In addition to certifying the authenticity of the covered service member’s serious injury or illness, any certification must also identify the injury or illness as occurring in the line of duty while on active duty. The process for any such certification shall adhere to the procedure outlined for serious health conditions, listed above.

4. Care for Military Caregiver – The District may require a Certification of Military Caregiver Leave, to be completed by a Department of Defense (DOD) health care provider, a U.S. Department of Veterans Affairs (VA) health care provider, a DOD TRICARE network authorized private health care provider, a DOD non-network TRICARE authorized health care provider or a health care provider, as defined in Section 825.125 of the FMLA who are not affiliated with DOD, VA or TRICARE. If the District requests certification, an employee may submit documentation of enrollment in the VA Program of Comprehensive Assistance for Family Caregivers as sufficient certification of the covered veteran’s serious injury or illness. The documentation will be deemed sufficient even if the employee is not the named caregiver on the document. However, if the employee submits the documentation of the service member’s enrollment in the VA Program of Comprehensive Assistance for Family Caregivers, the District may require the employee to provide additional information, such as confirmation of the familial relationship to the enrolled service member or documentation of the veteran’s discharge date and status.

5. Possibility of Waiver of Certification – The District, at its sole discretion, may waive the certification requirements set forth in this Regulation, as the circumstances of each FMLA-leave request may permit. Under no circumstances shall the District’s exercise of its discretion be interpreted or construed as a permanent waiver of the certification requirements, but such requirements shall remain in full force and effect unless and until the District specifically modifies or eliminates this Regulation.



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**G. INTERMITTENT OR REDUCED LEAVE**

1. Birth or Placement - Leave taken under this policy for the birth of a child, the placement of a child for adoption or foster care, or to care for such child may be taken on an intermittent or reduced work schedule only with the approval of the Board of Education.

2. Non-Instructional Employees - FMLA leave, other than birth or placement of a child, may be taken on an intermittent or reduced-schedule basis when medically necessary. If an employee seeks leave on an intermittent or reduced-schedule basis, the employee must submit medical certification, as discussed above, and additional certification from a health care provider, that the intermittent or reduced-schedule leave is medically necessary.

- The District may require an employee taking intermittent or reduced-schedule leave to transfer temporarily to an alternative available position for which the employee is qualified or may modify the employee's current position to better accommodate the employee's recurring periods of leave.
- Whenever the need for the FMLA leave is reasonably foreseeable, the employee must make a reasonable effort to schedule the treatment so that it is not unduly disruptive to District operations.

3. Instructional Employees - Leave taken because of the employee or family member's serious health condition may be taken on an intermittent or reduced-schedule basis when medically necessary. If an employee seeks leave on an intermittent or reduced-schedule basis, the employee must submit medical certification, as discussed above, and additional certification from a health care provider that the intermittent or reduced-schedule leave is medically necessary.

If an instructional employee requests intermittent leave to care for a spouse, son, daughter, or parent, or for the serious health condition of the employee, that is foreseeable based on planned medical treatment, and the employee would be on leave for more than twenty (20) percent of the total number of working days over the period of the leave, the District may require the employee to:

1. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. Transfer temporarily to an available position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

The employee must make a reasonable effort to schedule the treatment so that it is not unduly disruptive to District operations. The District will not require the employee to take more

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leave than is necessary to address the circumstances that precipitated the need for the leave, and will calculate time lost in the same method used to calculate other types of absences, at an increment of no more than one hour.

**H. INSURANCE PREMIUMS**

During an employee's family or medical leave of absence, the District will continue to provide health, life, vision, and dental insurance coverage for employees who are eligible for insurance benefits. Voluntary deductions (employee contributions) for (dependent) insurance for health/life/vision/dental (and employee disability and/or supplemental life insurance) must be paid in full each month and received by the twenty-fifth (25<sup>th</sup>) day of the month. Payments are to be submitted to the insurance office. Failure to make payments in a timely manner while on FMLA leave may result in the loss of any and all insurance coverage provided by the District to its employees. Employees should contact the District administrator responsible for coordinating insurance benefits regarding specific arrangements for making the required payments.

**I. JOB RESTORATION**

Upon return from FMLA-qualifying leave in accordance with this Regulation, the employee will be returned to the same or an equivalent position with no loss in benefits that accrued prior to the leave of absence. An employee who does not return to work at the end of an authorized leave may be subject to termination.

If an employee fails to return to work after the termination of the leave period, the District may recover health insurance premiums paid under the group plan during the leave period, except in certain circumstances (e.g., continuing serious health condition of employee or family member needing care, or other circumstances beyond control of employee). The District may recover any other insurance premiums (e.g., premiums for supplemental life insurance or for dependent coverage), submitted on behalf of the employee, for which the District has not been reimbursed, either upon the employee's return to work or the employee's failure to return after unpaid family or medical leave has ended.

**J. NOTIFICATION**

1. District Notification Procedure – The District shall provide its employees with notice of their rights and responsibilities under the FMLA through use of the following Notices:

- a. **General Notice** – A poster summarizing the FMLA entitlements shall be placed in an area accessible for employees and shall also be provided to each employee in the employee handbook.

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- b. **Eligibility Notice** – This Notice shall state whether the employee qualifies to take FMLA leave.
  - c. **Rights and Responsibilities Notice** – This Notice, issued in conjunction with the Eligibility Notice, will specify if a certification will be required from the employee, identify if paid leave will run together with the FMLA leave, address the procedure for making health insurance payments, the consequences of failing to make timely payments, and the employee's liability for repayment of health insurance premiums if the employee fails to return to work at the expiration of their FMLA leave. Finally, this Notice will explain the employee's right to return to the same or an equivalent job at the expiration of their FMLA leave. Both the Eligibility and Rights and Responsibilities Notices will be provided to all employees within five (5) business days of when the District becomes aware of a potential FMLA situation.
  - d. **Designation Notice** – Within five (5) business days of the District's receipt of sufficient information from the employee to make a determination, the District shall provide the employee with the Designation Notice, which shall inform the employee if the leave shall be designated as FMLA leave. This Notice will designate the amount of leave counted against the employee's entitlement, specify if the FMLA leave will run concurrently with any accrued paid leave, and notify the employee if a fitness-for-duty exam will be required prior to returning to work.
2. **Employee Notification Requirements** – Absent unusual circumstances, all employees seeking FMLA leave must follow the District's customary call-in procedure for reporting absences. An employee who can reasonably foresee the need to take FMLA leave is required to notify the District of the date of commencement and the expected duration of the leave at least thirty days in advance of the leave, or if the need for the leave is not foreseeable, as soon as practicable. When the need for leave is foreseeable, an employee's failure to provide thirty days notice prior to taking leave may result in denial or delay of leave. An employee requesting leave under this policy should submit a completed application for leave form (forms available in the Superintendent's office) to the Superintendent/designee. An employee's failure to follow the District's call-in procedure is grounds for the delay or denial of the employee's FMLA leave request.

**K. ADDITIONAL FMLA INFORMATION**

The foregoing regulation represents compliance with the provisions of the Family and Medical Leave Act of 1993 and its revised regulations. Any employee desiring additional information or explanation of the rules and regulations of the Act, should review the District's General Notice Poster or arrange a conference with the Superintendent/Designee.