

1 Joint School District No. 2, Meridian
2 Meridian Technical Charter High School, Inc. has adopted West Ada's (Joint School District No. 2) policy.
3 STAFF PERSONNEL

4
5 Series 400

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7 Policy Title Family and Medical Leave Act Code No. 403.10

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9 The Family and Medical Leave Act (FMLA) entitles eligible employees to take up to 12 work
10 weeks of unpaid, job-protected leave each year for specified family and medical reasons. An
11 eligible employee is defined as an individual who:

- 12
13 A. Has been employed by the district for at least twelve (12) months; and
14 B. Has been employed for at least one thousand two hundred fifty (1,250) hours of service
15 during the twelve-month (12-month) period immediately preceding the
16 commencement of the leave; and
17 C. Is employed at a worksite where fifty (50) or more employees are employed by the
18 district within seventy-five (75) miles of the worksite.
19 D. A general notice regarding FMLA will be provided to all potentially eligible employees
20 upon hire.

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22 For the purpose of determining eligibility for FMLA, this district will calculate the “twelve-
23 month (12-month) period immediately preceding the commencement of the leave” as a
24 rolling 12-month period measured backward from the date an employee uses any FMLA
25 leave. FMLA runs concurrently with sick leave, personal leave, vacation or short term
26 disability.

27
28 FMLA leave may be taken by an employee for any of the following reasons:

- 29 A. To care for the employee’s child after birth or placement of a child with the employee
30 for adoption or foster care;
31 B. To provide care for the employee’s spouse, child, or parent, who has a serious health
32 condition; or
33 C. For a serious health condition that makes the employee unable to perform the
34 employee’s job.

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36 An employee must promptly advise the Human Resource Department, as soon as the
37 employee becomes aware that he/she is, or will become, temporarily unable to work for
38 any medical reason (pregnancy, personal or family serious health condition) **for more than**
39 **five (5) consecutive days**. If the employee is unable to make this contact due to unforeseen
40 circumstances, then it is the responsibility of the direct supervisor to make contact with
41 Human Resources within five (5) days of becoming aware that the employee may need
42 FMLA. Notification of eligibility must be given to the employee within five (5) days after the
43 Human Resources Department becomes aware that the employee has the need for leave. In
44 addition, intermittent leave or reduced scheduled hours leave may be requested by the
45 employee when medically necessary due to a serious health condition.

- 46
47 A. A medical certification must be received in Human Resources within fifteen (15)
48 calendar days before the leave will be designated as FMLA; if the certification is not
49 received within the fifteen (15) calendar days, the employee may give up their right to
50 FMLA.

- 51 B. A fitness-for-duty or return to work certification must be received, upon request, in
52 order for the employee to be restored to employment showing that they can perform all
53 functions of the job they were hired to perform before the end of the FMLA leave.
- 54 C. In general, a fitness-for-duty certification may not be required for each absence taken
55 on an intermittent or reduced leave schedule. However, if the employer has a
56 reasonable belief that the employee's return to work presents a significant risk of harm
57 to the employee or to others, the employer may require a fitness-for-duty certification
58 up to once every thirty (30 days).
- 59 D. The employee's return to work may be delayed until the fitness-for-duty certification is
60 provided. Human Resources may contact an employee's health care provider to clarify
61 or authenticate a fitness-for-duty certification but cannot delay the employee's return to
62 work while making that contact. Under no circumstances may the employee's direct
63 supervisor contact the employee's health care provider.
- 64 E. A return to work with restrictions does not restore the employee's job even if they are
65 working and doing light duty nor does light duty or work restrictions count as full
66 employment. Light duty is an option to which both parties must agree. The district may
67 deny light duty and or rescind light duty if there is a cause for concern. The FMLA
68 entitlement is still in effect.

69

70 Qualifying Exigency Leave Entitlements for military personnel

71 Qualifying exigencies may arise when the employee's spouse, son, daughter, or parent
72 whose is a member of the Armed Forces (including the National Guard and Reserves) and
73 who is on covered active duty or has been notified of an impending call or order to covered
74 active duty. For purposes of qualify exigency leave, an employee's son or daughter on
75 covered active duty refers to a child of any age. Please see Appendix C and D for a list of
76 qualify exigency categories.

77

78 Effect on Pay and Benefits:

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80 FMLA leave is unpaid leave; however, the employee must take any accrued paid vacation
81 days, personal days or sick leave to which he/she is entitled. Use of sick leave must comply
82 with district Policy 402.41. For example, if he/she has accrued two weeks of paid vacation
83 leave, his/her first two weeks of FMLA will also count as paid vacation leave and he/she will
84 receive his/her accrued vacation pay for that period.

85

86 If the employee takes a leave of absence which he/she or the district designates as "FMLA",
87 his/her medical benefits will continue on the same terms and conditions as if he/she were
88 actively at work. The district will continue to pay its share of the benefits. The employee
89 will continue to pay his/her share of either medical or voluntary benefits. The district will
90 provide any necessary notice of termination of such insurance coverage due to the
91 employee's failure to pay his/her portion of the premium or the employee's request for
92 termination of coverage. Such notice will be provided at least fifteen (15) days prior to the
93 termination of coverage.

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95 The Joint School District No. 2 is in compliance with the Family and Medical Leave Act
96 (Appendix A, B, C and D) and will follow the guidelines, rules and regulations.

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DEFINITIONS

- 99 • **"Child (son or daughter)"** includes biological, adopted, or foster child, stepchild,
100 legal ward, or a child of a person standing *in loco parentis* (in place of parent). The

- 101 child must be either under 18 years of age or, of over 18, incapable of self-care
102 because of a mental or physical disability.
- 103 • **“Parent”** includes a biological parent (not parent-in-law) or someone who stood *in*
104 *loco parentis* when the employee was a child.
 - 105 • **“Spouse”** Means a husband or wife as defined or recognized under State law for
106 purposes of marriage in the State where the employee resides, including common
107 law marriage in States where it is recognized.”
 - 108 • **“Serious health condition”** is a condition that involves either in-patient care of
109 “continued treatment” by a health care provider.
 - 110 • **“Continued treatment”** includes:
 - 111 1. Any three (3) day period of incapacity that involves at least two (2) visits to a
112 health care provider; or a regimen of continued treatment under a health care
113 provider’s supervision;
 - 114 2. Any treatment of incapacity due to pregnancy (including severe morning
115 sickness), even if no treatment is obtained for prenatal care;
 - 116 3. Any period of incapacity due to a chronic medical condition, such as asthma,
117 diabetes, or epilepsy, even if no treatment is obtained;
 - 118 4. Any period of absence to receive multiple treatments for restorative surgery or
119 a serious illness such as cancer, severe arthritis, or kidney disease; or
 - 120 5. Any permanent or long-term incapacity (e.g., Alzheimer’s or severe stroke), even
121 if no treatment is being provided.

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Date of Revision:
11/21/06; 5/31/14

Legal Reference: Code of Idaho
29 CFR Part 825

Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer*;
- Has worked for the employer for at least *12 months*;
- Has at least *1,250 hours* of service for the employer during the 12 month period immediately preceding the leave*; and
- Works at a location where the employer has at least *50 employees within 75 miles*.

* Special hours of service eligibility requirements apply to airline flight crew employees. See Fact Sheet 28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

LEAVE ENTITLEMENT

Eligible employees may take up to **12 workweeks** of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to **26 workweeks** of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. *See Fact Sheets 28F: Qualifying Reasons under the FMLA and 28M: The Military Family Leave Provisions under the FMLA.*

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

NOTICE

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. *See Fact Sheet 28E: Employee Notice Requirements under the FMLA .*

Covered employers must:

- (1) Post a notice explaining rights and responsibilities under the FMLA (and may be subject to a civil money penalty of up to \$110 for willful failure to post);
- (2) Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;

- (3) When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and
- (4) Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

See Fact Sheet 28D: Employer Notice Requirements under the FMLA.

CERTIFICATION

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. See Fact Sheet 28G: Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, See Fact Sheet 28M(c): Qualifying Exigency Leave under the FMLA; Fact Sheet 28M(a): Military Caregiver Leave for a Current Servicemember under the FMLA; and Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA.

JOB RESTORATION AND HEALTH BENEFITS

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. See Fact Sheet 28A: Employee Protections under the Family and Medical Leave Act .

OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an eligible employee's use of FMLA leave.

ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any

proceeding, related to the FMLA. *See Fact Sheet 77B: Protections for Individuals under the FMLA*. The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

For additional information, visit our Wage and Hour Division Website:

<http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current 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 temporary disability retired list, for a serious injury or illness*; or (2) a veteran 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, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

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

Definition of 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.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 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 incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

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



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EXHIBIT B