

## **SUBJECT: FAMILY AND MEDICAL LEAVE ACT**

The Southern Westchester Board of Cooperative Educational Services, in accordance with the Family and Medical Leave Act of 1993 (FMLA), gives "eligible" employees of the SWBOCES the right to take unpaid leave for a period of up to twelve (12) workweeks in a twelve-month period as determined by the SWBOCES. The SWBOCES will compute the twelve-month period according to the following time frame: a "rolling" twelve-month period will be used that is measured backward from the date an employee uses any FMLA leave.

Employees are "eligible" if they have been employed by the SWBOCES for at least twelve (12) months and for at least 1,250 hours of service during the previous twelve-month period. Full-time teachers are deemed to meet the 1,250 hour test. The law covers both full-time and part-time employees.

### **Service Member Family Leave**

An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative of that individual) of a covered service member who is recovering from a serious illness or injury sustained in the line of duty while on active duty is entitled to up to twenty-six (26) weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave.

The term "covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves.

### **Implementation/Benefits**

At SWBOCES certain types of paid leave will be substituted before unpaid leave can be taken, unless extraordinary circumstances prevent this from happening.

An employee on FMLA leave is also entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his/her share during the leave period.

In most instances, an employee has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave.

The Board of Cooperative Educational Services has a right to thirty (30) days advance notice from the employee where practicable. In addition, the Board may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these

(Continued)

# POLICY

2010

5341  
2 of 2

Personnel

## **SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)**

requirements may result in the denial of FMLA leave. The Board may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition. The Board of Cooperative Educational Services has the right to deny restoration to employment if the employee does not furnish the certificate of fitness.

### **Notice for Leave Due to Active Duty of Family Member**

In any case in which the necessity for leave due to any qualifying exigency is foreseeable, whether because the spouse, or a son, daughter, or parent of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

### **FMLA Notice**

A notice which explains the FMLA's provisions and provides information concerning the procedures for filing complaints of violations of the FMLA shall be posted in each school building.

Administration is directed to develop regulations to implement this policy, informing employees of their rights and responsibilities under the FMLA.

Family and Medical Leave Act of 1993, Public Law 103-3  
29 Code of Federal Regulations (CFR) Part 825

Adopted: 6/23/10