

Federally-Mandated Family and Medical Leave

Notification and reporting

When the need for a family and medical leave of absence (FMLA leave) is foreseeable, the employee shall provide at least 30 days prior notice to the BOCES unless circumstances dictate otherwise. If the requested FMLA leave is because of a military-related qualifying exigency and the leave is foreseeable, the employee shall provide notice to the BOCES as is reasonable and practicable. With respect to foreseeable medical treatments, the employee shall make a reasonable effort to schedule treatment so as not to disrupt BOCES operations.

If the need for FMLA leave is unforeseeable, the employee shall provide notice to the BOCES as soon as practicable under the circumstances.

If an employee's requested FMLA leave also constitutes paid leave under another Board policy, the FMLA leave and other applicable leave shall run concurrently.

In the absence of an employee's request for FMLA leave, the BOCES may independently determine whether an employee's leave under another Board policy constitutes FMLA leave and, if so, shall notify the employee that the leave will be counted against the FMLA leave to which the employee is entitled.

If the FMLA leave is due to illness, the employee shall report periodically on his or her leave status and intention to return to work.

If the requested FMLA leave is because of a military-related qualifying exigency, the BOCES may require the employee to provide supporting documentation of such exigency.

The BOCES may also require the employee to show certification of the familial relationship if the request for FMLA leave is to care for a family member with a serious health condition, to care for a covered service member with a serious injury or illness, or in connection with a military-related qualifying exigency.

Medical certification

The BOCES shall require medical certification to support a claim for leave for an employee's own serious health condition; to care for the employee's child, spouse, partner in a civil union, domestic partner or parent with a serious health condition; or to care for a covered service member's serious injury or illness. The medical certification will be sufficient if it contains the date on which the condition or injury/illness commenced, the probable duration of the condition or injury/illness and any appropriate medical information.

For an employee's own serious health condition, the medical certification also must include a statement that the employee is unable to perform the functions of the position. For leave to care for a child, spouse, partner in a civil union, domestic partner or parent with a serious health condition or to care for a covered service member with a serious injury or illness, the medical certification must include an estimate of the amount of time the employee is needed to provide care.

In its discretion and in accordance with the FMLA, the BOCES may require a second or third medical opinion and periodic recertification's as the BOCES deems reasonably necessary.

Medical certification for intermittent leave must indicate the dates on which treatment is expected to be given and the duration of the treatment. For leave to care for a child, spouse, partner in a civil union, domestic partner or parent with a serious health condition or to care for a covered service member with a serious injury or illness, the medical certification must include a statement that the employee's intermittent leave is necessary to care for the family member and the expected duration and schedule of treatment.

For the employee's own intermittent leave, the medical certification must contain a statement indicating the medical necessity of the intermittent treatment and its expected duration.

Return to work

An employee who has taken leave due to the employee's own serious health condition shall provide a medical certification from the employee's physician that the employee is able to resume work. In addition, the BOCES reserves the right to consult with a public health official if there is any question about possible

transmission of a disease.

The following return to work provisions apply to teachers:

1. If the teacher begins any category of FMLA leave more than five weeks prior to the end of the semester and the leave is for more than three weeks, the BOCES may require the teacher seeking to return within the last three weeks to continue the leave through the end of the semester.
2. If the teacher begins any category of FMLA leave except for the teacher's own serious health condition less than five weeks before the end of the semester and the period of leave is greater than two weeks, the BOCES may require the teacher seeking to return within the last two weeks to continue the leave through the end of the semester.
3. If the teacher begins any category of FMLA leave except for the teacher's own serious health condition three or fewer weeks before the end of the semester and the period of leave is greater than five working days, the BOCES may require the teacher to continue the leave through the end of the semester.

Repayment of benefits

If an employee fails to return to work upon completion of an approved FMLA leave, the BOCES may recover from the employee the cost of any payments made to maintain the employee's group health insurance coverage unless the failure to return to work was due to a continuation, recurrence or onset of a serious health condition as certified by a physician that entitles the employee to leave, or for other reasons beyond the employee's control.

Posting/notice to employees

The BOCES shall post notices explaining the rights and responsibilities under the Family and Medical Leave Act (FMLA) in locations where they can be readily seen by employees and applicants for employment.

Notice of the FMLA's rights and responsibilities shall also be incorporated into

employee handbooks or provided directly to employees.

File: GBGF-R

**EAST CENTRAL BOCES
BOARD REGULATION**

Adopted: June 17, 2015