



Kenton County School District | It's about ALL kids.

**THE KENTON COUNTY BOARD OF  
EDUCATION**

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Dr. Henry Webb, Superintendent of Schools

**KCSD ISSUE PAPER**

**DATE:**

12/18/2018

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve Receive revisions to Policies 03.12322 and 03.22322 – “Family and Medical Leave” as a first reading.

**APPLICABLE BOARD POLICY:**

01.5 – School Board Policies

**HISTORY/BACKGROUND:**

In an effort to clearly define the process in which the District administers Family and Medical Leave, and to align the language of the certified and classified policies, the District proposes revisions to policies 03.12322 and 03.22322, which are in accordance with the Family and Medical Leave Act (FMLA) of 1993. These revisions, coupled with revisions to policies 03.123 and 03.223 – “Leaves and Absences”, will allow systemic and consistent application of FMLA leave of absence requests.

**FISCAL/BUDGETARY IMPACT:**

No fiscal/budgetary impact

**RECOMMENDATION:**


This is a first reading of the proposed revisions to Policies 03.12322 and 03.22322 – “Family and Medical Leave” and will not receive a vote at this time.

**CONTACT PERSON:**

Matt Rigg, Executive Director of Human Resources

\_\_\_\_\_  
Principal

  
\_\_\_\_\_  
District Administrator

  
\_\_\_\_\_  
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent’s mailbox.

**Kenton County Board of Education**

Board Members: Carl Wicklund, Chairperson Karen L. Collins, Vice Chairperson Joshua Crabtree, Esq. Carla Egan Jessica Jehn  
“The Kenton County Board of Education provides Equal Education & Employment Opportunities.”

**- CERTIFIED PERSONNEL -****Family and Medical Leave****REASONS**

In compliance with the Family and Medical Leave Act of 1993 and under procedures developed by the Superintendent, unpaid leave shall be granted to eligible employees for the following reasons:

1. For the birth and care of an employee's newborn child , or for placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child or parent who has a serious health condition, as defined by federal law;
3. For an employee's own serious health condition, as defined by federal law, that makes the employee unable to perform the employee's job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the covered active duty or call to active duty involving deployment to a foreign country of the employee's spouse, son, daughter, or parent who serves in a reserve component or as an active or retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered service member (spouse, son, daughter, parent or next of kin) who has incurred or aggravated a serious injury or illness in the line of duty while on active duty in the Armed Forces that has rendered or may render the family member medically unfit to perform his/her duties or to care for a covered veteran with a serious injury or illness as defined by federal regulations.

**NOTICES AND DEADLINES**

- a. Employees who may be eligible for or who request leave for any of the above reasons shall be provided an FMLA notice of eligibility and rights and responsibilities. Requests for family and medical leave should be made in writing but verbal requests may be made to the immediate supervisor or other designated administrator who shall then document the request. The District may require that a request for leave be supported by a certification for health care or military-related situations as permitted by federal law, but such requirements must be set out in the required notice.

*Deadline for Notice to be Provided:* Absent extenuating circumstances, within five (5) business days of District receipt of a request or the District being made aware of a potentially qualifying reason.

NOTE: Only the District's human resources professional, leave administrator, or personnel director may contact an employee's health care provider to clarify or authenticate an FML certification in support of an FML request about which there are questions. The employee's direct supervisor shall not contact the provider.

- b. The District shall designate an employee's leave, paid or unpaid, as FMLA-qualifying and shall provide a designation notice indicating whether the request is approved or if additional information is needed. Leave may be delayed if the employee does not provide proper notice (30 days advance notice for a foreseeable leave; otherwise, notice as soon as the need becomes known).

*Deadline for Notice to be Provided:* Absent extenuating circumstances, within five (5) business days of learning that an FMLA reason supports the leave.

**Family and Medical Leave****ELIGIBILITY**

Employees are eligible for up to twelve (12) workweeks of family and medical leave each school year, if they have been employed by the District for twelve (12) months, have worked at least 1,250 hours during the twelve (12) months preceding the start of the leave, and otherwise qualify for family and medical leave. When family and medical military caregiver leave is taken based on a serious illness or injury of a covered service member, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve-month period. This provision also applies to covered service members/veterans that have been on active duty within the past five (5) years as defined by federal regulation.

Full-time teachers are presumed to have worked at least 1,250 hours during a school year. In determining whether returning veterans meet the minimum 1,250 hour standard, hours actually worked for the District during the twelve-month period are to be combined with hours they would have worked for the District had they not been called for military service.

In situations involving both the Americans with Disabilities Act (ADA) and FMLA, the District shall apply the law affording the employee the greater benefit.

**RESTRICTIONS**

Leave that is taken by an eligible employee for any of the designated reasons shall be counted as family and medical leave, even if the employee does not request leave under the FMLA. To the extent that an employee is entitled to any paid leave, such leave shall be taken and it shall run concurrently with family and medical leave, except that the employee may request to reserve ten (10) days of sick leave. (This requirement shall not apply to employees taking workers' compensation leave.) However, when an employee's work-related injury/medical state qualifies as a serious health condition, worker's compensation leave shall run concurrently with the twelve (12) workweek entitlement.

Paid leave used by the employee as required under this policy shall count, as applicable, against the twelve (12) or twenty-six (26) FMLA workweek entitlement.

Entitlement to family and medical leave for the birth and care of a newborn child or placement of a child shall expire twelve (12) months after the date of such birth or placement.

When both spouses are employed by the District, each employee shall be entitled to 12 workweeks of yearly unpaid leave (for an aggregate total of 24 weeks), if the leave is required due to the illness of a child, the illness of the other spouse, or the employee's own illness. If the leave is to care for the birth or adoption of a child or to care for a sick parent, the District shall limit the couple's aggregate leave to a total of twelve (12) weeks.

EXCEPTION: The limit on the combined amount of family and medical leave shall be twenty-six (26) workweeks when both eligible spouses are employed by the District and are eligible for leave that involves a covered Armed Forces service member/veteran.

Depending on the date family and medical leave is to begin, instructional employees as designated by federal regulation may be required to continue on leave until the end of the school term to avoid disruption.

Unused family and medical leave shall not accumulate from year to year.



**Family and Medical Leave****INTERMITTENT LEAVE/REDUCED HOURS**

Family and medical leave may be taken intermittently (when medically necessary) or on a reduced hours basis.

**CONTINUATION OF BENEFITS**

While on family and medical leave, employees shall be entitled to all employment benefits accrued prior to the date on which the leave commenced. Health insurance for an employee on family and medical leave shall continue to be provided by the state on the same basis had the employee not taken leave. Other employment benefits and seniority shall not accrue during unpaid family and medical leave.

**RETURN TO WORK**

As noted by the required notice of eligibility and rights and responsibilities, when family and medical leave is taken due to an employee's own serious health condition, the employee shall provide fitness-for-duty certification before returning to work. This may include certification by the health care provider that the employee is able to perform essential functions specific to the job, as noted by the District in a list attached to the certification form.

Upon return to work, the employee shall be entitled to his/her same position (or an equivalent position with equivalent pay) with corresponding benefits and other terms and conditions of employment.

**NOTICE**

The District shall notify employees of family and medical leave provisions by posting appropriate notices in conspicuous places in the Central Office and each worksite and distributing notices as required by law.

**REFERENCES:**

Family and Medical Leave Act of 1993, 29 U.S.C. 2601-2654  
Title I of the FMLA, as amended by the National Defense Authorization Act  
Code of Federal Regulations, Title 29, Part 825  
[OAG 17-022](#)

**RELATED POLICIES:**

03.123, 03.1232, 03.1233, 03.1234, 03.1238, 03.124

Adopted/Amended: 8/3/2015  
Order #: 3

**- CLASSIFIED PERSONNEL -****Family and Medical Leave****REASONS**

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2. To care for the employee's spouse, child or parent who has a serious health condition, as defined by federal law;
3. For an employee's own serious health condition, as defined by federal law, that makes the employee unable to perform the employee's job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the covered active duty or call to active duty involving deployment to a foreign country of the employee's spouse, son, daughter, or parent who serves in a reserve component or as an active or retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered service member (spouse, son, daughter, parent or next of kin) who has incurred or aggravated a serious injury or illness in the line of duty while on active duty in the Armed Forces that has rendered or may render the family member medically unfit to perform his/her duties or to care for a covered veteran with a serious injury or illness as defined by federal regulations.

**NOTICES AND DEADLINES**

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## **Family and Medical Leave**

### **ELIGIBILITY**

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**Family and Medical Leave****CONTINUATION OF BENEFITS**

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[OAG 17-022](#)

**RELATED POLICIES:**

03.223, 03.2232, 03.2233, 03.2234, 03.2238, 03.224

Adopted/Amended: 8/3/2015  
Order #: 3