



## **FMLA and Child Care Leave FAQ Sheet**

This FAQ Sheet was created to help our SCTA members prepare for their FMLA (Family Medical Leave Act) or Child Care Leave. It highlights the most common questions, however, all members should contact the Personnel Office to receive guidance about their particular situation. Please contact the Personnel Office at 631-471-1309 or the SCTA Office at 631-585-1653 if you have any additional questions.

FMLA requires employers to provide 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Each employee is eligible for 12 weeks total in a 12-month period. To be eligible for family or medical leave an employee must have been employed for at least twelve (12) months and have worked at least 1,250 hours during the prior twelve months. While teachers and teaching assistants are exempt from the hours regulation, teacher aides are not and, therefore, most will not be eligible for FMLA. Eligibility for leave will also be calculated by the rolling period backward method.

### **What do I do when I first find out that I am pregnant, need surgery, or need to take a medical leave?**

- When an eligible employee finds out that he/she is pregnant or needs a medical leave that will last more than 5 days, a written letter should be submitted to the Personnel Office. The letter should be directed to Kristin Capel-Eden and also cc. Jerilyn Biryła. If applicable, attached to the letter should be a doctor's note stating the anticipated date of delivery or surgery. In instances of pregnancy, this letter should be sent at least 30 days prior to the employee's expected delivery date. In instances of surgery or medical leave, the letter should be sent as soon as possible. After receiving the letter, the Personnel Office will send the FMLA paperwork for you to complete. The member will have 15 days to return the paperwork filled out by their doctor to the Personnel Office. The district may contact the employee to inquire or request additional information. The Personnel Office will respond to FMLA requests within 5 days of all completed paperwork being submitted.

## **I have enough sick days? Do I need to apply for FMLA?**

- Yes. It is expected that if you anticipate being out more than 5 consecutive days you should apply for FMLA. After 5 consecutive days the district will require and notify the employee that these days of absence may be under the provisions of FMLA and counted as FMLA leave.

## **Can I use my sick days to get paid during FMLA?**

- Sick days may be used **ONLY** for the time the employee is considered “disabled”. For leaves related to pregnancy, the period of disability is typically 6 weeks from the date of a regular delivery and 8 weeks for a Cesarean section. The days that school is not in session are not charged as sick days; however, they do not extend the time of disability. If a woman is put on bed rest prior to the baby’s birth, she is considered disabled and can use her FMLA/sick time. If the employee continues to be disabled beyond the 6 or 8 weeks after delivery, she may continue to use sick days provided that she has a doctor’s note attesting to the disability.

## **How much time can I take off for childbirth?**

- According to FMLA, employees are entitled to 12 weeks in a 12-month period. Full weeks off of school do not count towards FMLA. FMLA starts on the first day out of work (not on the date of the birth). Employees may not use their sick days beyond the period of disability. If, after the period of initial disability, a member would like to take additional time to bond with their child under the age of 12 months, they can do so, however, only personal days can be used to be paid for that time. If the member has unused personal days from prior years, they can request that these days be converted from sick days back to personal days. This request is done through the Personnel Office as part of the FMLA process.

## **Do I keep my health insurance when I take FMLA?**

- Under FMLA, the employee would only have to pay the cost they currently pay under the district’s health insurance plan. Once the FMLA period is over, the employee is responsible for 100% of the insurance costs unless they are still using sick days.

## **What do I do at the end of my FMLA period?**

- After the FMLA period is over, the member is expected to either return to work, take an unpaid Child Care Leave (if relevant), or, if still disabled, file Long Term

Disability paperwork with the district. The approval of the disability is decided by a third-party administrator, JJ Stanis and Company, Inc.

### **What if I get approved for Long-Term Disability?**

- If an employee is approved for Long Term Disability, their Long-Term Disability benefits would come into effect after the 60 calendar day elimination period. After 60 calendar days, they will be paid 66 2/3% of their basic monthly earnings (not to exceed a maximum monthly benefit of \$4,200 less any other income benefits specified in the statement). For more specific information about Long Term Disability, reference the Sachem Central School District's Group Long Term Disability Protection Policy. <https://bit.ly/SCSDLTDPolicy>

### **Am I eligible for Short-Term Disability?**

- The district does not offer Short Term Disability as a benefit in our contracts. Any member who has purchased a Short-Term Disability policy on their own should contact the plan administrator for details.

### **Can I return to work after surgery or medical leave with restrictions?**

- No. In order to return from an FMLA, you must be cleared by your doctor to return to work without restrictions. You can utilize assistive devices such as boots, crutches, canes, etc. however, the doctor must state that you are cleared to return to work without restrictions.

### **What happens if I give birth over the summer?**

- If an employee gives birth over the summer, their Family Medical Leave would begin the first week school is back in session. Depending on the date of the birth, the employee may not be eligible to utilize sick days during this time as the employee may no longer be considered disabled. The employee will still be entitled to utilize FMLA time for bonding with their child under twelve months. This time would only be paid if the employee has Personal Days available for use.

### **When do I need to notify the district of my intentions to return after childbirth?**

- Contractually, the employee does not need to advise the district of her intentions to return to work or take an unpaid leave until the initial disability period is over. At that time, a written letter should be sent to the Personnel Office. The letter should be addressed to Kristin Capel-Eden and cc. Jerilyn Biryła. If an employee chooses

to take an unpaid Child Care Leave, they can take up to two full years of unpaid leave plus any part of the school year in which the child was born or adopted. Employees are also given the opportunity to return to work on February 1<sup>st</sup>.

- A member who is still covered by FMLA can return prior to the expiration of their FMLA time with at least two days' notice to Personnel.
- The SCTA Collective Bargaining Agreement states: *At the conclusion of the initial period of disability, or upon completion of adoption proceedings, teachers shall indicate if they wish to:*
  - A. Return to work
  - B. Take unpaid leave until the mid-year break or
  - C. Take a leave through the end of that school year

### **When do I need to request a full year Child Care Leave?**

- Requests for unpaid leave are made one (1) school year at a time. Requests to the district must be made in writing by May 1<sup>st</sup> of each year.

### **Can I still take an FMLA Leave if I did not give birth to my child?**

- FMLA permits employees to take leave to care for the employee's child after birth, or placement for adoption or foster care. The employee who did not give birth to the child may request a paid leave under FMLA only if they have available personal days to utilize during this leave. When the FMLA application is submitted to the Personnel Office, the member can request that these days be converted from sick days back to personal days and ask how many personal days they have available.

### **Can I take an FMLA Leave to take care of a sick immediate family member?**

- Yes. AN FMLA Leave can be taken to care for an immediate family member (spouse, child, or parent – but not a parent “in-law”) with a serious health condition. This leave may be paid only if the employee has Personal Days available to utilize. Sick days cannot be used for this purpose.

### **Does an employee have to take leave all at once or can it be taken periodically or to reduce the employee's schedule?**

- When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. 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 operation.

### **What if my spouse and I both work for the district?**

- In situations where spouses are employed by the Sachem School District, they would share the 12 weeks of Family Medical Leave for the following reasons:
  1. Childbirth
  2. Adoption of son or daughter
  3. To take care of a sick parent
- For example, if the father takes off two weeks after the child's birth, the mother would only be entitled to take the 10 remaining weeks. However, if the requested leave is for another approved condition (e.g.: husband's, wife's, or child's own serious health condition), the cumulative leave limitation does not apply and each parent may take 12 weeks of leave.

### **How will an unpaid leave affect my salary?**

- If an employee chooses to take an unpaid leave of any duration, they will be paid their salary to date as well as any money that was already withheld for their summer pay. If they return to work after an unpaid leave, they will be paid a prorated salary based on the remaining work days in the school year. If they have elected to have summer pay held back, this could significantly impact the amount of their bi-weekly paycheck. Teachers' salaries are prorated under Educational Law 3101 (MATTER of Swaim). If you work **more than half** of the working days in a month, you get credit for the month, but you deduct a day's pay from your monthly salary for every day you did not work. If you work **half or less than half** of the working days in a month, you do not get credit for the month, but you are paid your daily rate for every day you worked. Your daily rate of pay is calculated by taking your annual salary and dividing by 200. Your monthly rate of pay is calculated by taking your annual salary and dividing it by 10. (See example below for clarification.) <https://bit.ly/SEDSwaim>

### **If I return the day before a vacation, do I get paid for the vacation?**

- Coming back the day before a vacation is irrelevant. Salaries are prorated based on the actual number of working days in a month and how many of those working days you worked. Teachers' salaries are prorated under Educational Law 3101 (MATTER of Swaim). See the information above on prorating salaries for unpaid leave.

### **How will my summer check be affected if I take an FMLA?**

- An employee's summer check will not be affected if all days out are paid. If you go unpaid, all pay being held back for your summer check will be paid to you on the next pay date.

### **How does an FMLA affect my seniority?**

- An employee's seniority is not affected if they are being paid; however, the first unpaid day begins to affect seniority. Employees can contact personnel with specific questions regarding their seniority.

### **How many months in a year do I need to work to move on the pay scale the following year?**

- To move a step on the pay scale for the following year, an employee must work 5 months out of the year.

### **Do I accumulate sick and personal days when I am out on FMLA?**

- If an employee remains on payroll during an FMLA qualifying event, he or she shall continue to accrue applicable sick and personal time.

# Prorating Teachers' Salaries

Annual Salary = \$100,000

Monthly Salary =  $1/10^{\text{th}}$  = \$10,000

Daily Salary =  $1/200^{\text{th}}$  = \$500

- If you work more than  $\frac{1}{2}$  of the working days in the month, you deduct a day's pay from your monthly salary.
- If you work half or less of the working days in the month, you get paid a day's pay for each day you work.

## Example

February 2022 – 15 working days

Return February 11<sup>th</sup>

- Worked 7 days =  $7 \times \$500 =$  **\$3,500 pay**

Return February 10<sup>th</sup>

- Worked 8 Days & did not work 7 =  $7 \times \$500 =$  \$3,500 deduction from monthly salary
- $\$10,000 - \$3,500 =$  **\$6,500 pay**