

# MIDDLE BUCKS INSTITUTE OF TECHNOLOGY

SECTION: PROFESSIONAL EMPLOYEES

TITLE: FAMILY AND MEDICAL  
LEAVE

ADOPTED: July 1, 1991

REVISED: February 9, 2009

435.1. FAMILY AND MEDICAL LEAVE	
<p>1. Authority 29 U.S.C. Sec. 2601 et seq 29 CFR Part 825</p>	<p>In accordance with the Family And Medical Leave Act of 1993 (hereinafter referred to as the “FMLA”) the Middle Bucks Institute of Technology (hereinafter referred to as “school”) affords its eligible employees leave (“FMLA leave”) as set forth in this policy.</p>
<p>2. Delegation of Responsibility</p>	<p>The Director shall administer the following guidelines regulating leaves and ensuring the school's compliance with the FMLA.</p>
<p>3. Guidelines</p> <p>29 U.S.C. Sec. 2611, 2612</p>	<p><u>Eligible Employees</u></p> <p>Only eligible employees are entitled to FMLA leave. An <b>eligible employee</b> is an employee who has been employed by the school for at least twelve (12) months, which need not have been consecutive, prior to the commencement of the leave and has worked for the school for at least 1,250 hours over the twelve-month period immediately prior to the commencement of the leave.</p>
<p>29 U.S.C. Sec. 2611 29 CFR Sec. 825.113</p>	<p><u>Serious Health Condition</u></p> <p>A <b>serious health condition</b> means an illness, injury or impairment, or physical or mental condition that involves:</p> <ol style="list-style-type: none"> <li>1. Any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility.</li> <li>2. Any period of incapacity requiring absence of more than three (3) calendar days from work, school or other regular daily activities that also involves continuing treatment by or being under the supervision of a health care provider.</li> <li>3. Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely results in a period of incapacity of more than three (3) calendar days, and for prenatal care.</li> </ol>

<p>29 U.S.C. Sec. 2612</p>	<p><u>Reasons For Leave</u></p> <p>The school will grant FMLA leave only for one (1) of the following reasons:</p> <ol style="list-style-type: none"> <li>1. Birth of a child, or placement of a child with the employee for adoption or foster care. Leave for this purpose must end within one (1) year after the birth or placement.</li> <li>2. The serious health condition of the employee's spouse, child or parent.</li> <li>3. A serious health condition that makes the employee unable to perform the employee's job.</li> <li>4. Qualifying exigency, as defined in Department of Labor regulations, arising from the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.</li> <li>5. Care of a spouse, child, parent or next of kin who is a covered servicemember undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is otherwise on a temporary disability retired list, for a serious injury or illness.</li> </ol>
<p>29 U.S.C. Sec. 2612</p>	<p><u>Length Of Leave</u></p> <p>Eligible employees are entitled to up to twelve (12) weeks or sixty (60) working days of FMLA leave in each twelve-month period beginning on July 1 of each year; except employees on leave to care for a covered servicemember who is recovering from an illness or injury sustained in the line of duty shall be provided up to twenty-six (26) weeks of leave in a twelve month period.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.126</p>	<p><u>Active Duty/Call To Active Duty</u></p> <p>An employee shall be eligible for leave because of a qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call to active duty.</p> <p>If the necessity for leave is foreseeable, the employee will provide notice as soon as practicable.</p>

<p>29 CFR Sec. 825.309</p>	<p>The school may require that a request for leave because of a qualified exigency be supported by a certification issued in accordance with regulations issued by the Secretary of Labor. The employee will provide the required certification in a timely manner.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.127</p>	<p><u>Care Of Covered Servicemember</u></p> <p>An employee is eligible for leave up to twenty-six (26) weeks per year to care for a covered servicemember who is a member of the Armed Forces, including the National Guard and Reserves, and 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.</p> <p>If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school and will notify the school of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30), the employee will provide notice as soon as practicable.</p>
<p>29 CFR Sec. 825.310</p>	<p>The school will require that a request for leave to care for a covered servicemember be supported by certification signed by a health care provider of the individual in need of care. The employee will provide the required certification in a timely manner. The certification must contain the following:</p> <ol style="list-style-type: none"> <li>1. Date the serious health condition, injury or illness began.</li> <li>2. Probable duration of the condition.</li> <li>3. Appropriate medical facts regarding the condition.</li> </ol> <p>An employee is eligible to take intermittent or reduced schedule leave for planned medical treatment. The required certification must contain the dates the treatment is expected to be given and the duration of such treatments.</p>
<p>29 CFR Sec. 825.127</p>	<p>Leave to care for an ill or injured covered servicemember, when combined with other qualifying leave under FMLA, will not exceed twenty-six (26) weeks in a single twelve-month period.</p>

<p>29 U.S.C. Sec. 2614 29 CFR Sec. 825.209</p>	<p><u>Benefits During Leave</u></p> <p>FMLA leave is unpaid leave. However, whenever group health insurance is provided to an employee before the employee takes FMLA leave, the school will maintain the employee's health coverage under any group health plan during the leave on the same terms as if the employee continued to work.</p>
<p>29 CFR Sec. 825.213</p>	<p>If an employee fails to return to work at the conclusion of his/her FMLA leave, the school will recover from the employee the amount it paid for health insurance for the employee during the leave. However, the school will not recover amounts paid for health insurance for an employee during FMLA leave if the employee fails to return to work because of a serious health condition of the employee, the employee's spouse, child or parent, or if the employee fails to return for other reasons beyond his/her control. If an employee fails to return to work because of a serious health condition, the school will require the employee to provide medical certification of the condition within thirty (30) days of the school's request for such certification.</p>
<p>29 CFR Sec. 825.210</p>	<p>Where FMLA leave is substituted paid leave under the section entitled Substitution Of Paid Leave For FMLA Leave, the employee's share of group health plan premiums will be paid by payroll deduction.</p> <p>Where FMLA leave is unpaid, the employee's share of group health plan premiums will be paid to the school. Employee payments must be made when payments would be made by payroll deductions. In the event that an employee's payment is not made within thirty (30) days of the date on which it is due, the school will maintain health coverage by paying the employee's share and will recover amounts so paid from the employee.</p>
<p>29 U.S.C. Sec. 2614</p>	<p><u>Reinstatement After Leave</u></p> <p>At the conclusion of FMLA leave, employees will be restored to their original position with equivalent pay, benefits and other employment terms as if they had not taken such leave, unless they are denied reinstatement because they are key employees. However, the employee has no greater right to reinstatement or other benefits or conditions of employment than if the employee had been continuously employed during the leave period.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.202</p>	<p><u>Limitation On FMLA Leave</u></p> <p><i>Intermittent Leave or Reduced Leave Schedule –</i></p> <ol style="list-style-type: none"> <li>1. Intermittent leave or a reduced leave schedule may be taken for a serious health condition where this is medically necessary.</li> </ol>

<p>29 CFR Sec. 825.204</p> <p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.203</p> <p>29 U.S.C. Sec. 2618</p> <p>29 CFR Sec. 825.602, 825.603</p>	<ol style="list-style-type: none"> <li>2. Intermittent leave or a reduced leave schedule may be taken to care for a seriously injured or ill covered servicemember.</li> <li>3. Intermittent leave or a reduced leave schedule may not be taken for the birth of a child or for placement of a child for adoption or foster care.</li> <li>4. When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the school may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position. Alternatively, the school may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits, but not equivalent duties.</li> </ol> <p>When FMLA leave is needed to care for a family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to disrupt the employer's operation unduly.</p> <p><i>Special Limitations on FMLA Leave for Instructional Employees –</i></p> <ol style="list-style-type: none"> <li>1. Leave Taken Near the End of an Academic Term (or Half Year):             <ol style="list-style-type: none"> <li>a. The school may require the instructional employee to continue his/her FMLA leave to the end of the term if:                 <ol style="list-style-type: none"> <li>1) The leave begins more than five (5) weeks before the term's end, will last at least three (3) weeks, and the employee would return to work within three (3) weeks of the end of the term.</li> <li>2) The leave is for a purpose other than the employee's serious health condition, begins during the five-week period before semester's end, will last more than two (2) weeks, and the employee would return during the two-week period before the end of the term.</li> <li>3) The leave is for a purpose other than the employee's own serious health condition, begins during the three-week period before the end of a term, and will last more than five (5) days.</li> </ol> </li> </ol> </li> </ol>
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<p>29 CFR Sec. 825.601</p>	<p>The entire period of leave taken counts as FMLA leave. However, if the annual FMLA leave entitlement of an employee who is required to take leave until the end of the academic term ends before the leave is completed, the school will still maintain health benefits, reinstate the employee and provide other FMLA entitlements when the leave ends.</p> <p>2. Use of Intermittent Leave or Reduced Leave Schedule:</p> <p>a. If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule based on foreseeable planned medical treatment, and if the employee would be on leave for more than twenty percent (20%) of the total number of working days over the period of the leave, then the employer may require the employee to choose either:</p> <ol style="list-style-type: none"> <li>1) To take leave for a period or periods not greater than the duration of the planned treatment.</li> <li>2) To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.</li> </ol>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.302, 825.303</p>	<p><u>Application For FMLA Leave</u></p> <p>Employees must give thirty (30) days notice of their need for FMLA leave where the need for leave is foreseeable, or such notice as is practicable under the circumstances.</p> <p>If notice is not given as required above, the school may delay the leave until at least thirty (30) days after the employee gives notice of the need for FMLA leave.</p> <p>Employees must provide periodic reports during FMLA leave regarding the employee's status and intent to return to work.</p>
<p>29 U.S.C. Sec. 2612 29 CFR Sec. 825.207</p>	<p><u>Substitution Of Paid Leave For FMLA Leave</u></p> <p>Employees may substitute accrued paid leave for FMLA leave as follows:</p> <ol style="list-style-type: none"> <li>1. Accrued paid vacation, personal or medical/sick leave for FMLA leave for the employee's serious health condition.</li> <li>2. Accrued paid vacation, personal, medical/sick or family leave for FMLA leave for the serious health condition of a spouse, child or parent.</li> </ol>

<p>29 U.S.C. Sec. 2613 29 CFR Sec. 825.305</p> <p>29 CFR Sec. 825.307</p> <p>29 CFR Sec. 825.312</p> <p>29 U.S.C. Sec. 2619 29 CFR Sec. 825.300</p>	<p>3. Accrued paid vacation, personal, or family leave for leave for the birth, adoption, or placement in foster care of a child.</p> <p>4. An employee may not require the school to provide paid family or medical/sick leave under the FMLA in circumstances where the employer's policy does not otherwise allow it.</p> <p>Paid leave taken by an employee will be designated FMLA leave by the school on the first day of the leave of absence. The first day of leave counts as the first day of the twelve-week entitlement. Any other available leave will run concurrently with FMLA.</p> <p>The school will designate an employee's use of paid leave as FMLA leave based on information from the employee. In no event will the school designate paid leave as FMLA leave after the leave has ended.</p> <p><u>Certification Of Serious Health Conditions And Certification Of Fitness For Work</u></p> <p>Employees must provide medical certification supporting the need for leave due to a serious health condition of the employee or an immediate family member on a form to be provided by the school.</p> <p>At the request of the school, employees must provide second and, where the first and second opinions differ, third medical opinions regarding the need for leave due to a serious health condition (second and third opinions will be at the expense of the school). The school will deny leave until the required certification is supplied.</p> <p>Employees must provide recertification of medical conditions every thirty (30) days, or more frequently at the discretion of the school, as allowed by the FMLA.</p> <p>An employee who takes FMLA leave because of the employee's own serious health condition must provide certification that s/he is able to resume work provided the employee has been absent from work as a result or combination of the serious health condition for thirty (30) days or more. The school may deny reinstatement until the requested certification is provided.</p> <p><u>Notice To Employees Of Their Rights And Obligations Under The FMLA</u></p> <p>The school will post a notice, as required by the FMLA, explaining the provisions of the FMLA.</p>
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