

PCSTA

Maternity Leave Information

Revised September 2005

Careful planning to protect your rights and your job as a member of the Phoenix Central School Teachers' Association is important. This document will attempt to provide a clear, concise overview of current practices as provided for in our contract and under the law. If you are planning on taking a "maternity" leave, you should contact your building representative for assistance before sending any letters or information to the Superintendent.

Understanding all the rights that are provided for you can be a complicated process. There are a several different options you have related to taking a leave for the birth and rearing of your child. Legally and contractually the leaves provided for childbirth and child rearing are separate and distinct, and are treated differently. The leave for childbirth (a leave only available to females) is considered a "disability leave" under the contract and by law. There are some protections and rights associated with this .leave that do not apply to child rearing leaves. The child rearing leave is optional, and provided by contract only.

Child-Bearing Leave and the Family and Medical Leave Act

The disability leave provided for childbearing in the PCSTA contract is covered under Temporary Disability Leave. You begin the temporary disability leave when your doctor indicates that you are no longer able to work. The temporary disability leave ends when your doctor indicates that you are no longer disabled and can return to work. In a normal delivery this is usually 6 weeks after the delivery of the baby. A caesarean or other complications may extend your period of disability for a few more weeks. During your temporary disability leave the district must continue to provide you with the opportunity to utilize your benefits. You can use your accrued sick leave to continue to be paid during the time you are disabled until such time as you have exhausted your days. You can also continue to participate in all insurance programs provided by the district as long as you continue to contribute the employee share of the premiums. In the case of a lengthy and difficult pregnancy and/or delivery, you may also qualify for the PCSTA sick bank (see the provisions in the contract or speak to your building rep) that could allow you the use of additional sick days if your days run out.

The Family and Medical Leave Act of 1993 (FMLA) provides for protection beyond what the contract provides. Under the law you are entitled to 12 workweeks of unpaid, benefits-covered leave for the birth and care of a newborn. FMLA leave runs concurrently with your temporary disability leave. It allows you to use your sick days for as long as you are disabled just like the temporary disability leave. In addition it allows you to maintain your insurance benefits at your usual premium contribution during the time you are not receiving a paycheck for the remainder of the 12 weeks. In most situations you must return to work or take an unpaid child-rearing leave once the doctor states that you are no longer disabled. FMLA allows you to stay home the remainder of the 12 weeks even though you are no longer disabled. At the end of the 12 weeks you can return to work regardless of whether it is the beginning of a semester or not. With a non-paid child-rearing leave you must return at the beginning of a semester.

When requesting temporary disability /FMLA leave you must notify the district prior to taking the leave. The law requires a 30-day notice or "as soon as practical." FMLA also allows a father to take up to 12 unpaid workweeks for the care of a newborn. Insurance would continue as long as the employee portion of the premium is paid. Sick time could be used if the child has "a serious health condition."

Child-Rearing Leave

A child rearing leave is an unpaid leave without benefits. You may take a leave of absence for child-rearing purposes for a period not to exceed 2 years (the 2 years encompasses the disability/F.MLA leave time) with return to duty at the start of a semester. You must notify the district of your intent to return or not 120 days prior to the end of the leave.

The district will allow you to remain in the health and dental insurance plans, but you must pay 100% of the premiums. All other benefits and insurance cease during the period of time covered by this leave.

You may request the 2 years of leave one year at a time if you are not sure you will be taking a two-year leave. 120 days prior to the end of the first year of leave you must notify the district of your intent to take a second year. Then, 120 days prior to the end of the second year of leave you would have to notify the district of your intent to return or not. You are entitled to 2 years of child rearing leave for the birth of each child that you have while you are employed by the district.

Requesting a child rearing leave while you are still a non-tenured teacher is always a dangerous proposition. Because you are non-tenured, the district

need not give a reason or hold a hearing to dismiss you while you are gone. The law does protect your job during the child-bearing (temporary disability/FMLA leave) portion of your leave.

Examples

- 1) Your due date is February 1. You work until your doctor says you are disabled (some people work right up until their due date). You will now be on temporary disability leave. If you are planning to return to work as soon as the doctor says you are no longer disabled (usually 6 weeks), you leave it at that and return to work .

- 2) In the above scenario, you know that you do not want to return to work as soon as the doctor says you are no longer disabled, but you do not want to take an extended child-rearing leave. The leave that you request would be a temporary disability/FMLA leave. Under FJ\1LA you are entitled to a total of 12 workweeks of leave. If you have your baby on February 51 you do not have to return to work on or about March 19th (six weeks from the birth). You can return to work on April 30th. The 12 weeks are workweeks so if there is a school vacation during that time you do not count those days. In the above situation you could actually return on May 14th because there would be a February break and an April break during your leave.

- 3) In the above situation, if you decide that you will be taking an extended child rearing leave, your child-rearing leave would start after the 12 weeks of FMLA leave. The two years of child-rearing leave, though, would include the time you were on temporary disability/FMLA leave. During the child-rearing leave you would be responsible for 100% of health and dental insurance premiums. While you are on FMLA leave you only pay the employee portion of the premium. 120 days prior to the end of the leave you have to notify the district of your intent to return. You must return at the beginning of a semester.

- 4) If your baby is due on June 151 you can use part of the FMLA leave at the beginning of the next school year. You could take 3 or 4 weeks of FMLA leave from June 151 until the end of the school year, and then

take the rest of the FMLA at the beginning of the next school year. Summer does not count since FMLA leave is 12 workweeks of leave.

- 5) A father may take 12 unpaid workweeks of FMLA leave to care for a newborn within the 12-month period beginning with the birth of the child.
- 6) In a case where a couple is employed by the same employer, the total number of workweeks of leave to which both may be entitled may be limited to 12 workweeks.
- 7) FMLA leave can also be used because of the placement of a child with the employee for adoption or foster care.

Sample letter requesting Child-Bearing Leave

Date (3 months before due date or as soon as possible)

Dear (Superintendents' name)

I am writing to notify you that I am expecting to have a child on (date). I will be on temporary disability leave during a period of time that will be specified by my doctor as the delivery date nears I will notify (building principal) as soon as I have more definitive information.

I anticipate returning to work as soon as I am able.

Respectfully,

(Your name)

CC: Director of Human Resources
Building Principal

Sample letter requesting Child-Bearing Leave utilizing FMLA

Date (3 months before due date or as soon as possible)

Dear (Superintendent's name)

I am writing to notify you that I am expecting to have a child on (date). I will be on temporary disability leave during a period of time that will be specified by my doctor as the delivery date nears. I wish to take advantage of the Family and Medical Leave Act in order to extend my leave and benefits to a total of 12workweeks. I will notify (Building principal) as soon as I have more definitive information as to the commencement of my leave.

I anticipate returning to work after the 12weeks.

Respectfully,

(Your name)

CC: Director of Human Resources
Building Principal

Sample letter requesting Child-Bearing Leave utilizing FMLA and requesting extended Child-Rearing Leave

Date (3 months before due date or as soon as possible)

Dear (Superintendent's name)

I am writing to notify you that I am expecting a child on (date). I will be on temporary disability/FMLA leave for 12 weeks from the date my doctor states that I am disabled. I will notify (building principal) as soon as I have more definitive information as to the commencement of my leave.

Following the expiration of my leave under FMLA, I anticipate taking an extended unpaid child-rearing leave to continue until (date). I will confirm this following the birth of my child.

Respectfully,

(Your name)

CC: Director of Human Resources
Building Principal

Family and Medical Leave Act (FMLA)

Important Points

Eligible Employee

- Has been employed by the employer for at least 12 months.
- Has been employed for at least 1250 hours of service during the previous 12-month period.

Serious Health Condition

An illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care, hospice, or residential medical care

Or

- Continuing treatment by a health care provider

Son or Daughter

Can be biological adopted, foster, stepchild, legal ward, or standing in loco parentis for.

- Under 18 years of age

Or

- 18 or older and incapable of self-care due to mental or physical disability

Entitlement to Leave

You pay your own insurance after sick days are gone

A total of 12 workweeks of leave during any 12-month period. School vacations and summer do not count in the 12 workweeks.

- Due to the birth of a child and in order to care for the child
- Due to an adoption or foster care placement
- In order to care for the spouse, child, or parent of the employee who has a serious health condition
- Due to the serious health condition of the employee that makes the employee unable to perform the functions of the position
- Spouses employed by the same employer may be allowed to take a total of 12workweeks unless it is due to the employee s serious health condition then each employee would be entitled to 12 workweeks.

FMLA Leave

- Can be taken intermittently or on a reduced work schedule if medically necessary due to a serious health condition of your own or your spouse, child, etc.
- Can only be taken intermittently due to childbirth, adoption, etc. with the agreement of the employer.
- Is an unpaid leave. An employee may elect or an employer may require the employee to use personal leave or sick leave in any situation that use of those paid days are normally allowed.
- You should provide 30 days notice or as soon as possible.
- It allows you to maintain your health insurance at your normal premium contribution.
- You must be given your position back or an equivalent position after the 12 workweeks of leave.
- You can return to work earlier than originally planned.

Special Rules Concerning School Employees

- The employer has more say in the use of intermittent leave.

- Leaves taken near the end of an academic term by employees who are employed in an instructional capacity have several special rules:
 1. If the leave begins more than 5 weeks prior to the end of an academic term, the district may require you to continue on leave until the end of the term if the leave is of at least 3 weeks and the return to work would be during the last 3 weeks of the term.
 2. If the leave begins less than 5 weeks prior to the end of an academic term, the district may require you to continue the leave until the end of the academic term if the leave is greater than 2 weeks duration and the return to work would be during the last 2 weeks of the term. (If you are not the one that has a serious health condition.)
 3. If the leave begins less than 3 weeks prior to the end of the academic term, the district may require you to continue on leave until the end of the term if the leave is greater than 5 working days. (If you are not the one that has the serious health condition.)

Definitions Related To the Above Situations

Academic Term means a semester. There can only be 2 semesters in a school year.

Instructional Employees are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes **teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired**. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include counselors, psychologists, or curriculum specialists.