The following guidelines shall be used when an Employee requests, or the District determines, an Employee is on a leave covered by the Family and Medical Leave Act of 1993 (FMLA OR FAMILY LEAVE), under the District’s policy GCCBC.

I. Purpose: The FMLA was enacted in 1993 for the purpose of providing Employees that work at least 12 consecutive months and 1,250 hours during the year preceding the leave, to take up to 12 weeks of unpaid leave due to one of the following events:

- to care for a newborn, newly adopted, or newly placed foster child;
- to care for a child’s, parent’s, or spouse’s serious medical condition; or
- to care for their own serious medical condition.

II. Definitions:

A. Child: A biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is either under age 18, or 18 or older and incapable of self-care because of a mental or physical disability.

B. Serious Health Condition: Employee is under a health care provider’s “continuous” treatment that requires:

- two or more treatments by a health care provider; or
- one treatment by a health care provider that results in a regimen of continuing treatment under the provider’s supervision.

“treatment” does not include routine physicals, eye exams, or dental exams. Nor does it include a regimen that includes only over-the-counter medications, bed rest, and other similar activities that does not require monitoring by a doctor.

The FLU and COMMON COLD, unless complications arise, are not covered maladies.

- Any condition that results in an overnight stay in a hospital, hospice, or residential care facility is automatically a serious health condition under the FMLA. FMLA leave would cover the time in the hospital and any subsequent period of incapacity or follow-up treatment in connection with the same condition.

- Conditions related to pregnancy are serious health conditions under the FMLA if they prevent an Employee from doing her job. The FMLA protects intermittent and long term leave for:
  - prenatal care and doctors visits;
  - bedrest on a doctor’s or midwife’s orders;
  - morning sickness (a visit to a health care provider is not necessary for each absence); and
  - the birth of the child.

- Chronic health conditions: The FMLA also applies to chronic conditions. These are conditions that require periodic visits for treatment by a health care provider and continue over and extended period of time. Examples of conditions that might qualify for FMLA leave includes but are not limited to diabetes, asthma, and epilepsy.
C. Intermittent Leave: Leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave periods from an hour or more than several weeks.

D. Parent: A biological, parent or an individual who stands or stood in loco parentis to an Employee when the Employee was a child (does not include parent-in-law).

E. Protected Leave: Upon return from FMLA leave, an Employee must be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

F. Twelve months: The twelve month period shall be determined by using a “rolling 12-month period” measured backward from the date leave is used (i.e. the determination of the available family leave will depend on the amount of family leave the Employee has taken in the 12 months immediately preceding the requested family leave).

III. Effective Date: Unless covered by a collective bargaining agreement, the effective date of this policy is August 5, 1993; for Employees covered by a collective bargaining agreement, this policy is effective on the date of the termination of the agreement or on February 5, 1994, whichever is earlier. If an Employee is on leave at the effective date, only that portion of the leave starting on and after the effective date will be considered family leave to be counted against the Employees 12 week entitlement.

IV. District’s Notice and Recordkeeping Requirements:

A. The Human Resources Department will post and keep posted throughout the District, a notice explaining the FMLA provisions.

B. The District will provide written guidance whenever an Employee requests or the District determines the Employee is on a leave covered by the FMLA.

C. Upon proper receipt of notice from an Employee of the need for family leave or the District determines the Employee is on an FMLA qualifying leave, the District will provide the Employee with the following information:
   1. an explanation that the leave will be counted against his/her annual FMLA leave entitlement;
   2. any requirement that he/she furnish medical certification of a serious health condition and the consequences of not doing that;
   3. his/her right to substitute paid leave and whether the District will require the substitution of paid leave;
   4. any requirement that he/she make premium payments to maintain health benefits and the arrangements for making those payments;
   5. any requirement that he/she present a fitness-for-duty certificate to be restored to employment;
   6. his/her right to return to the same or an equivalent job after leave;
   7. whether he/she is considered a “key Employee” and if so, the possibility of and conditions for denying job restoration following his/her leave; and
   8. his/her potential liability for paying health insurance premiums paid by you during his/her FMLA leave if he/she fails to return to work.

V. Employee Notice Requirements: Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and notice is
practical. The Employee must give sufficient facts and information for the District to discern that he/she is asking for, or is qualified for, FMLA Leave. If the leave is not foreseeable, the Employee must give notice of his/her need for leave as soon as practical under the circumstances (within one or two working days).

VI. Continuation of Benefits & Compensation:

A. Paid and Unpaid Family Leave: Employees shall receive payment for time lost under FMLA under the same terms and conditions currently in place under the District policy and/or collective bargaining agreements, whichever is applicable. In any case, it is the District’s responsibility to designate leave, paid or unpaid, as FMLA-qualifying, based on information provided by the Employee. “Sick Bank” provisions shall not apply to family leaves unless otherwise provided by policy or collective bargaining agreement.

B. Health Benefits: The Employee is entitled to, and the District is required to, maintain group health insurance coverage for an Employee on FMLA leave if the Employee was covered under group health insurance before the leave was taken. The use of FMLA leave cannot result in a loss of any employment benefit that accrued prior to the start of an Employee’s leave. The District will provide the same amount of health coverage and with the same terms as if the Employee had continued to come in to work every day.

1. The Employee’s portion of the premium payments must be made at the Superintendent’s office, Salem School District, 38 Geremonty Drive, Salem NH 03079 on or before the close of business on the 20th of each month preceding the effective date of coverage.

2. The District and the Employee may agree to another payment arrangement such as the prepayment of premiums through increased payroll deductions prior to the commencement of the FMLA leave.

3. Under certain circumstances, the District may elect to recover its portion of the health benefit cost from an Employee who fails to return to work after the FMLA leave or fails to work 30 calendar days after returning.

C. Other Benefits: The Employee is not entitled to accrue or receive other benefits (e.g., vacation/sick day accruals, seniority, holiday pay, additional benefits etc) unless otherwise provided by District policy or a collective bargaining agreement.

VII. Intermittent and Reduce Schedule Family Leave:

A. An Employee requesting intermittent or reduced schedule family leave will provide the District with a certification from a health care provider indicating that intermittent or reduced leave schedule is medically necessary, and a description of the expected duration and schedule of such leave. Intermittent and reduced schedule family leave for birth or adoption/foster placement may only be taken with permission of the District.

B. When intermittent leave is for planned medical treatment, the Employee must try to schedule treatment so as not to unduly disrupt District’s operations. The District may transfer the Employee to an available alternative position with equivalent pay and benefits.

VIII. Special Exceptions:

A. Newborn or newly adopted child: FMLA leave taken to care for a newborn or newly adopted child must be completed within 12 months after the birth or adoption.
Certain special rules apply to Employees of “local educational agencies,” including public school boards and elementary and secondary schools under their jurisdiction, and private elementary and secondary schools.

1. A teacher who requests a period of FMLA leave near the conclusion of the academic term, may be required to continue the leave until the end of the term.

   Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the Employee would not have been required to report for duty is not counted against the Employee’s FMLA leave entitlement. An instructional Employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that Employees would normally receive if they had been working at the end of the school year.

2. Intermittent Leave or Leave on a Reduced Leave Schedule: If a teacher requests this type of leave to care for a family member or for the teacher’s own serious health condition, and the Teacher would be on leave for more than 20% of the total number of contract days over the period the leave would extend, the District may require the Teacher to:
   - Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
   - 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
   - These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional Employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. “Periods of a particular duration” means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include an uninterrupted period of leave.
   - If an instructional Employee does not give required notice of foreseeable FMLA leave (section 825.302) to be taken intermittently or on a reduced leave schedule, the employer may require the Employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the District may require the Employee to delay the taking of leave until the notice provision is met.