

Policy Outline

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I. Policy Value Statement

The Board of Education of Howard County (Board) recognizes its legal obligation to provide leave in compliance with the Family and Medical Leave Act of 1993 (FMLA).

II. Purpose

The purpose of this policy is to ensure the implementation of the Family and Medical Leave Act of 1993 (FMLA). FMLA provides job-protected leave from work for qualifying family and medical reasons. The continuation of group health benefits under the same conditions as if an employee had not taken leave is required. FMLA requires that employees be restored to the same or similar position when they return to work after FMLA leave.

III. Standards

- A. Under the Family and Medical Leave Act (FMLA) up to 12 weeks of leave in a 12-month period may be granted to an eligible Howard County Public School System (HCPSS) employee for:
 - 1. The employee's own serious health condition that renders the employee unable to perform the functions of the employee's position or job.
 - 2. The care for a spouse, child, or parent who has a serious health condition.
 - 3. The birth of the employee's child, adoption of a child by the employee, or the placement of a foster child with the employee, and to bond with the child within one year of birth, adoption, or placement.
- B. The National Defense Authorization Act of FY 2008 amends the FMLA Act of 1993 to provide the following Military Family Leave:

1. Up to 26 weeks of leave in a single 12-month period for eligible HCPSS employees to care for a covered service member who has a serious injury or illness incurred during the line of duty on active duty.
 2. Up to 12 weeks of leave entitlement to address certain exigencies for eligible HCPSS employees with a spouse, son, daughter, or parent on active duty or call to active duty.
- C. When the Maryland Time to Care Act takes effect, HCPSS will integrate FMLA requirements to align with the new law, current practices, and negotiated agreements.

IV. Responsibilities

The Superintendent/designee will ensure that the provisions of this policy are followed.

V. Delegation of Authority

The Superintendent is authorized to develop appropriate procedures for the implementation this policy within the limits set forth by this policy.

VI. Definitions

Within the context of this policy, the following definitions apply:

- A. Child – A biological, adopted, or foster child, stepchild, a legal ward, or child of a person standing in loco parentis who is under age 18, unless he or she is incapable of self-care due to mental or physical disability.
- B. Eligible Employee – An employee who has been employed HCPSS for at least 12 months and had worked the minimum number of required hours with HCPSS during the 12-month period immediately preceding the commencement of the leave.
- C. Employment Benefits – All benefits provided to HCPSS employees, which may include group life insurance, health insurance, sick leave, personal leave, or annual leave as referred to in the negotiated agreements.
- D. Family and Medical Leave – Leave with or without pay granted to an eligible HCPSS employee in compliance with federal regulations and guidelines.
- E. HCPSS Employee – An individual who is a permanent or temporary employee of the HCPSS whose compensation is paid in whole or part by the Board, including but not limited to, school-based administrators, teachers, substitute teachers, paraeducators, and other school-based and Central Office Support staff.
- F. Military Family Leave – Leave with or without pay granted to an eligible HCPSS employee in compliance with the National Defense Authorization Act for FY 2008.

- G. Serious Health Condition – An illness, injury, impairment, physical or mental condition that involves:
1. Any period of incapacity or treatment in connection with inpatient care (an overnight stay) in a hospital, hospice, or residential medical care facility; or
 2. Any period of incapacity requiring absence from work, school, or other regular daily activities of more than three calendar days that involves continuing treatment by, or under the supervision of, a health care provider; or
 3. Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if untreated, would likely result in a period of incapacity of more than three calendar days; or
 4. Pregnancy (including prenatal medical appointments, incapacity due to morning sickness, medically required bedrest, and other conditions outlined by the Pregnancy Fairness Workers Act).
- H. Spouse – A person who is legally married to another person and the legal rights and responsibilities to come with marriage.
- I. Twelve-month Period – A twelve-month period measured forward from the first date a HCPSS employee takes FMLA leave.

VII. References

- A. Legal
Public Law 103-3, 107 Stat. 6 (29 U.S.C. 2601 et seq.), Family and Medical Leave Act of 1993
Public Law 110-181, Section 585(a), the National Defense Authorization Act for FY 2008 (NDAA)
- B. Board Policies
Policy 7110 Annual Leave for Administrative Personnel
- C. Relevant Data Sources
Dol.gov/agencies/whd/fmla
- D. Other
Master Agreement Between the Board of Education and the American Federation of State, County and Municipal Employees (AFSCME)
Master Agreement Between the Board of Education and the Howard County Association of Supervisors and Administrators (HCASA)

Master Agreement Between the Board of Education and the Howard County
Association of Supervisors and Administrators - Non-Certificated Supervisory
(HCASA-NCS)
Master Agreement Between the Board of Education and the Howard County Education
Association (HCEA)
Master Agreement Between the Board of Education and the Howard County Education
Association - Educational Support Professionals (ESP)
Howard County Public School System Benefits Enrollment Guide for Active
Employees

VIII. History¹

ADOPTED: April 14, 1994
REVIEWED: July 1, 2015
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¹ Key: *Adopted*-Original date the Board took action to approve a policy; *Reviewed*-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; *Modified*-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; *Revised*-The date the Board took action on a policy that based on the recommendation of the Superintendent/designee needed a comprehensive examination; *Effective*-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.

FAMILY AND MEDICAL LEAVE

Effective: February 13, 2025

I. Notification Requirements

- A. Requests for Family and Medical Leave Act of 1993 (FMLA) leave must be made through the Department of Human Resources. The Department of Human Resources will provide appropriate forms and will process leave requests. Howard County Public School System (HCPSS) employees must also notify their building administrator/supervisor that FMLA leave is being requested through the Department of Human Resources.
- B. An application for leave based on the serious health condition of the HCPSS employee or the employee's spouse, child, or parent must also be accompanied by a "Medical Certification Statement" provided by HCPSS and completed by the health care provider. Failure to fulfill this requirement may result in the eligible HCPSS employee being absent without leave and subject to termination.
- C. An eligible HCPSS employee must provide the HCPSS at least 30 days advance notice before FMLA leave is to begin, if the need for the leave is foreseeable, such as an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of an eligible family member. When the need for leave is not foreseeable, such notice must be given as soon as possible, preferably within one or two business days of when the employee learns of the need for the leave.
- D. The HCPSS reserves the right to make reasonable inquiries to determine if the nature of the absence qualifies for FMLA leave.
- E. Eligible HCPSS employees on FMLA leave because of a serious health condition or a serious health condition of an eligible family member may be requested to provide, at reasonable intervals, periodic medical statements pertaining to the individual's health status. For a chronic health condition, the employee must certify doctor visits for the qualifying condition at least twice per year.
- F. HCPSS employees are expected to return to work immediately following the expiration of FMLA leave. However, if an eligible HCPSS employee is unable to return to work at the expiration of the FMLA leave, the employee may request approval for additional leave under another designated type of leave available to HCPSS employees. Such requests must follow procedures and criteria established by the Department of Human Resources.

- G. FMLA limits the leave that may be taken by spouses who work for the same employer to a combined total of 12 work weeks during any 12-month period of leave taken for the birth of a child, to care for the child after birth, for bonding with the child, or for placement for adoption or foster care of a child.
- H. If a HCPSS employee is on FMLA due to their own serious medical condition, the employee must provide, in writing by a healthcare provider, an anticipated date of return to the normal full duty work schedule.
- I. If a HCPSS employee is on FMLA due to a family illness and the family members passes away, the FMLA leave ends immediately and the employee needs to notify the Department of Human Resources to discuss paid time off and/or leave options.
- J. While on FMLA, a HCPSS employee is not allowed to accept temporary work within HCPSS, including but not limited to, substitute teacher, recess monitor, Home and Hospital, coach, etc.
- K. A HCPSS employee who has questions or concerns regarding their FMLA leave request should contact the Department of Human Resources.

II. Intermittent Leave and/or Reduced Work Schedule

- A. Intermittent leave is available, if medically necessary, due to a serious health condition of an eligible HCPSS employee or the eligible employee's immediate family member. The birth of a child, adoption, and/or foster care are not covered under intermittent leave.
- B. The eligible HCPSS employee is subject to the notification requirements in Section I.
- C. HCPSS will make every effort to accommodate requests for intermittent leave or reduced work schedule due to medical necessity. The HCPSS employee may be assigned to an alternative position with equivalent pay and employment benefits if the alternative better accommodates the employee's intermittent leave schedule.
- D. There are additional provisions for eligible HCPSS instructional employees requesting intermittent leave or a reduced work schedule for planned medical treatment. If the leave request would result in the employee missing more than 20 percent of the work schedule, the HCPSS employee may be required to:
 - 1. Take leave for a particular duration of time which is not greater than the planned treatment, or
 - 2. Be temporarily transferred to an available alternative position for which the employee is qualified, with equivalent employment benefits, pay, responsibilities, and other conditions in existence prior to the FMLA leave,

and which better accommodates the requested leave.

III. Leaves Taken Near the End of an Academic Term

An eligible HCPSS instructional employee may be required to continue on leave until the end of the academic term under certain circumstances as defined by FMLA and approved by the Department of Human Resources.

- A. A HCPSS instructional employee's leave may be required to be extended until the end of an academic term if:
 - 1. The leave begins five (5) weeks or more before the end of a term, and
 - 2. The leave will last for at least three (3) weeks or more, and
 - 3. The employee intends to return during the three (3) weeks before the end of the term.

- B. A HCPSS instructional employee may be required to continue on a leave of absence for the remainder of the academic term for purposes other than the employee's own serious health condition if:
 - 1. The absence begins during the five (5) week period before the end of the academic term, and
 - 2. The leave will last two (2) weeks or more, and
 - 3. The employee intends to return to work during the two (2) week period before the end of the term.

- C. A HCPSS instructional employee may be required to continue on a leave of absence for purposes other than an employee's own serious health condition if:
 - 1. The absence begins during the three (3) weeks before the end of an academic term, and
 - 2. The approved leave lasts more than five (5) working days.

IV. FMLA Requirements

HCPSS reserves the right to determine, based on information provided, whether the requested leave, paid or unpaid, qualifies for FMLA leave. If approved, the FMLA leave will be taken in accordance with procedures established by the Department of Human Resources.

- A. The following paid leave may be used as part of the approved FMLA leave in accordance with the negotiated agreements:
 - 1. Earned sick leave must be used for a serious health condition of an eligible HCPSS employee, a spouse, child, or parent. Earned sick leave must be used for bonding with a child, the adoption of a child, or the placement of a foster child with the employee.

2. Unearned sick leave and earned and unearned personal leave may be used for a serious health condition of an eligible HCPSS employee, spouse, child, or parent. Unearned sick leave and earned and unearned personal leave can also be used for bonding with a child, the adoption of a child, or the placement of a foster child with the employee.
 3. Earned annual leave may be used for a serious health condition of an eligible HCPSS employee, spouse, child, or parent. Earned annual leave can also be used for bonding with a child, the adoption of a child, or the placement of a foster child with the employee.
 4. Any eligible pay granted under the Maryland Time to Care Act once the law takes effect.
- B. If an eligible HCPSS employee does not have enough applicable paid leave during their absence, additional leave will be provided without pay to meet the FMLA request. HCPSS may approve the use of unpaid FMLA leave for employee absences which meet the FMLA leave criteria.
- C. HCPSS may request an independent medical evaluation to obtain a second opinion before approving FMLA leave.
- D. Denial of a FMLA leave request may be appealed to the Department of Human Resources within ten business days of the notification of the denial.

V. Certification Required for FMLA

HCPSS requires an eligible HCPSS employee to submit a certification statement.

- A. Medical certification must be provided for any request for absence due to a serious health condition or the birth of a child.
- B. Requests for the adoption and/or foster care of a child must be accompanied by appropriate certification.
- C. Documentation must be provided to support the request for Military Family Leave.
- D. A second and/or third independent opinion may be required for additional medical verification.

VI. Return to Work

- A. A HCPSS employee on FMLA leave for their own serious health condition may be required to submit a medical certification stating that the employee is able to perform the essential functions of the job, which must be approved by the Department of Human Resources before the employee can return to work.

Requests for accommodations to perform the essential functions of the job must be made at least two weeks prior to the expiration of the approved leave.

- B. The eligible HCPSS employee will be returned to the same position, in most cases, as held prior to the FMLA leave. However, in some instances, the HCPSS employee may be returned to an available equivalent position for which the employee is qualified with equivalent employment benefits, pay, responsibilities, and other conditions in existence prior to the FMLA leave.
- C. Taking leave under FMLA will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

VII. Failure to Return to Work

If an eligible HCPSS employee fails to return to work after the expiration of FMLA leave and does not receive approval for another type of leave before the expiration of their current approved leave, the employee will be required to reimburse the HCPSS for any medical and health premiums paid for the HCPSS employee during FMLA leave. The HCPSS employee may be subject to disciplinary action, up to and including termination.

VIII. Maintenance of Employment Benefits

- A. During a period of FMLA leave, an eligible HCPSS employee's health coverage will continue under the same conditions that applied before the leave commenced.
 - 1. If the HCPSS employee is receiving pay while on FMLA leave, health insurance premium contributions will continue through payroll deduction.
 - 2. If all or any part of the FMLA leave is unpaid, the HCPSS employee is responsible for their share of the health insurance premium payments. Payments must be submitted directly to the Benefits Office.
- B. A HCPSS employee who is on approved paid FMLA leave, including intermittent leave, will continue to accrue leave at their regular rate.
- C. A HCPSS employee on unpaid FMLA leave will not accrue leave during this time.

IX. Definitions

Within the context of these implementation procedures, the following definitions apply:

- A. Academic Term – A school semester.
- B. Certification – Official documentation required for the approval of FMLA leave such as, but not limited to, medical, military family, adoption, or foster care.

- C. Equivalent Position – A position which has the same pay, employment benefits, and working conditions. An equivalent position involves the same or substantially similar duties and responsibilities, and entails substantially equivalent skill, effort, responsibility, and authority.
- D. Instructional Employee – An employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches 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 auxiliary personnel such as counselors, psychologists or curriculum specialists.
- E. Intermittent Leave – Leave taken in separate periods of time due to a single illness or injury.
- F. Medical Certification Statement – Official documentation required for the approval of FMLA leave for a serious health condition.
- G. Reduced Work Schedule – A leave schedule that reduces an employee's usual number of working hours.
- H. Week – For purposes of FMLA leave, a week is equivalent to the employee's normal assigned work schedule for a week.

X. Monitoring

Policy 7100 implementation procedures will be overseen by the Department of Human Resources.

XI. History¹

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