

**Policy Outline**

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**I. Policy Value Statement**

The Board of Education 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).

**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 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, eligible same sex domestic partner (SSDP), or parent who has a serious health condition.
  - 3. The birth of the employee's child.
  - 4. The adoption of a child by the employee.
  - 5. The placement of a foster child with the employee.

- 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 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 employees with a spouse, son, daughter, or parent on active duty or call to active duty.

#### **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 to implement this policy.

#### **VI. Definitions**

- 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 is employed at .5 or more and who has been employed with the Howard County Public School System (HCPSS) for at least 12 months during the 12-month period immediately preceding the commencement of the leave.
- C. Eligible Same Sex Domestic Partner (SSDP) – An individual approved to receive benefits under the criteria established by the Board and as stated in the Benefits Enrollment Guide for Active Employees.
- D. Employment Benefits – All benefits provided to employees of the HCPSS, which may include group life insurance, health insurance, sick leave, personal leave, or annual leave as referred to in the negotiated agreements.
- E. Family and Medical Leave – Leave with or without pay granted to an eligible employee in compliance with federal regulations and guidelines.
- F. Military Family Leave – Leave with or without pay granted to an eligible 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.
  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.
  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.
- H. Twelve-month Period – The rolling twelve-month period measured back from the date FMLA leave is used.

## 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. Other Board Policies  
Policy 7110 Annual Leave for Administrative Personnel
- C. Relevant Data Sources
- 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 Administrators Association (HCAA)  
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 Educational Support Professionals (ESP)  
Howard County Public School System Benefits Enrollment Guide for Active Employees

**VIII. History<sup>1</sup>**

ADOPTED: April 14, 1994  
REVIEWED: July 1, 2015  
MODIFIED: May 11, 2021  
REVISED: February 12, 2009  
EFFECTIVE: May 11, 2021

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<sup>1</sup> 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: May 11, 2021

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**I. Notification Requirements**

- A. Requests for FMLA leave must be made through the Office of Human Resources. The Office of Human Resources will provide appropriate forms and will process leave requests. Employees must also notify their building administrator/supervisor that FMLA leave is being requested through the Office of Human Resources.
- B. An application for leave based on the serious health condition of the employee or the employee's spouse, child, same sex domestic partner (SSDP), or parent must also be accompanied by a "Medical Certification Statement" provided by the Howard County Public School System (HCPSS) and completed by the health care provider. Failure to fulfill this requirement may result in the eligible employee being absent without leave and subject to termination.
- C. An eligible 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, eligible SSDP, 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 employees on FMLA leave because of a serious health condition or a serious health condition of an eligible family member or eligible SSDP 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. Employees are expected to return to work immediately following the expiration of FMLA leave. However, if an eligible 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 employees. Such requests must follow procedures and criteria established by the Office of Human Resources.

- G. FMLA limits the leave that may be taken by a spouse or eligible SSDP 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 placement for adoption or foster care of a child.
- H. An employee must provide, in writing, an anticipated date of return to the normal work schedule.
- I. An employee who has questions or concerns regarding his/her FMLA leave request should contact the Office 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 employee, or the eligible employee's immediate family member or eligible SSDP. The birth of a child, adoption, and/or foster care are not covered under intermittent leave.
- B. The eligible employee is subject to the notification requirements in Section I.
- C. The HCPSS will make every effort to accommodate requests for intermittent leave or reduced work schedule due to medical necessity. The 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 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, HCPSS may require the employee:
  - 1. To take leave for a particular duration of time which is not greater than the planned treatment, or
  - 2. To 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 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 Executive Director of Human Resources/designee.

- A. An instructional employee may be required to continue on leave for the remainder of an academic term if:

1. A leave is five weeks or more before the end of a term, and
  2. The leave is for three weeks or more, and
  3. The employee intends to return during the three weeks before the end of the term.
- B. An 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 is during the five week period before the end of the academic term, and
  2. The leave is two weeks or more, and
  3. The employee intends to return to work during the two week period before the end of the term.
- C. An instructional employee will be required to continue on a leave of absence for purposes other than an employee's own serious health condition if:
1. The absence is during the three weeks before the end of an academic term, and
  2. The approved leave lasts more than five working days.

#### **IV. FMLA Requirements**

The 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 Office 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. Sick leave must be used for a serious health condition of an eligible employee. Accrued sick leave must be used for the serious health condition of a spouse, SSDP, child or parent.
  2. Annual leave may be used for a serious health condition of an eligible employee, spouse, eligible SSDP, child, or parent. Annual leave can also be used for the adoption of a child or the placement of a foster child with the employee.

3. Personal leave may be used for a serious health condition of an eligible employee, spouse, eligible SSDP, child, or parent. Personal leave can also be used for the adoption of a child or the placement of a foster child with the employee.
- B. If an eligible employee does not have enough applicable paid leave during his/her absence, additional leave will be provided without pay to meet the FMLA request.
1. The HCPSS may approve the use of unpaid FMLA leave for employee absences which meet the FMLA leave criteria.
  2. The HCPSS may request an independent medical evaluation to obtain a second opinion before approving FMLA leave.
  3. Denial of a FMLA leave request may be appealed to the Executive Director of Human Resources within ten business days of the notification of the denial.

#### **V. Certification Required for FMLA**

The HCPSS requires an eligible 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 may be requested 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. Prior to returning to work, an employee on FMLA leave for his/her own serious health condition is required to submit a medical certification stating that the employee is able to perform the functions of the job.
- B. The eligible employee will be returned to the same position, in most cases, as held prior to the FMLA leave. However, in some instances, the 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 employee fails to return to work after the expiration of FMLA leave, the employee will be required to reimburse the HCPSS for any medical and health premiums paid for the employee during FMLA leave, unless waived by the Executive Director of Human Resources.

## **VIII. Maintenance of Employment Benefits**

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

## **IX. Definitions**

- 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 Division of Human Resources and Professional Development.

**XI. History<sup>1</sup>**

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