

**Administrative Procedures for Policy #6019 (Personnel) of the Board of Education
Regarding the Family and Medical Leave Act of 1993**

I. Process

- A. The Department of Human Resources shall be responsible for administering employee requests regarding the Family and Medical Leave Act of 1993 (FMLA).

II. Definitions

- A. Academic Term – a school semester.
- B. Eligible Employee – an employee who is employed at an FTE status of 0.5 or more, works a minimum of 540 hours per year, and has been employed with Calvert County Public Schools (CCPS) for at least 12 months during the 12-month period immediately preceding the commencement of Family and Medical Leave.
- C. Employment Benefits –health insurance benefits provided to CCPS employees
- D. Family and Medical Leave (FML) – leave with or without pay granted to an eligible employee in compliance with state and federal regulations and guidelines.
- E. Immediate Family Member – includes the employee’s parent, spouse, or child (biological, adopted, foster, step child). The child must be under age 18, unless he or she is incapable of self-care due to mental or physical disability.
- F. Military Family Leave – leave with or without pay granted to an eligible employee to care for a covered military member who has a serious injury or illness incurred during the line of duty on active duty as outlined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
- 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 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 work 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 work days.
- H. Twelve-month Period – the calendar period measured back twelve-months from the date FML is to be used.

- I. Qualifying Exigency Leave - unpaid leave granted to an eligible employee for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty.

III. Overview

- A. Eligible employees may request FML for up to twelve (12) work weeks during in a fiscal year (July 1 to June 30) for one or more of the following reasons:
 1. A serious health condition that makes the employee unable to perform his/her job
 2. To care for a serious health condition of an immediate family member
 3. The birth of a child of the employee and in order to care for such child
 4. For the adoption of a child or the placement of a child with the employee for adoption or foster care.
- B. Military Family Leave may be requested by 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 as outlined in the Uniformed Services Employment and reemployment Rights Act of 1994 (USERRA) - Revised October 2009. Such leave may be paid or unpaid. An eligible employee may use up to 26 workweeks of military caregiver leave. The maximum amount of Military Family Leave is 26 week and does not renew each year.
- C. Qualified Exigency Leave may be requested by eligible employees for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, parent or next of kin is on active duty, or has been notified of an impending call or order to active duty. Such leave is unpaid and may be extended up to twelve (12) weeks during the normal 12-month period established by the employer.
 1. Qualifying exigencies include, but are not limited to:
 - a. Issue arising from a covered military member's short notice for deployment
 - b. Certain childcare and related activities arising from a call to active duty
 - c. Making or updating financial and legal arrangements to address a covered member's absence
 - d. Attendance of post-deployment activities such as arrival ceremonies and reintegration activities

IV. Notification Requirements

- A. An employee who anticipates he/she will be absent from work due to a personal illness or illness in his/her immediate family for more than three consecutive work days must notify the Human Resources Department.
- B. Requests for FML must be made through the Human Resources Department. The Human Resources Department will provide appropriate forms and process leave requests. Employees must also notify their immediate supervisor that FML is being requested through the Human Resources Department

- C. A request for FML must be written, signed by the employee, and submitted to the Human Resources Department for consideration.
- D. An eligible employee must provide CCPS at least 30 days advance notice before FML 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 immediate family member. When the need for leave is not foreseeable, such notice must be given as soon as possible, preferably within one or two work days of when the employee learns of the need for the leave.
- E. In case where no prior notice was given, the immediate supervisor must notify the Human Resources Department whenever an employee is absent from work due to personal illness or illness in his/her immediate family for more than three consecutive work days. The Human Resources Department will then contact the employee to provide information about FML.
- F. The FML request must be accompanied by the appropriate certification as follows:

Reason for FML Request	Required Documentation
Serious health condition of the employee or the employee's immediate family member	Medical certification completed by the health care provider
Child birth	Medical certification completed by the health care provider
Adoption and/or foster care of a child	Appropriate documentation showing legal guardianship
Military Family Leave	Appropriate documentation showing military orders

1. Failure to provide appropriate documentation may result in denial of FML.

- G. Medical Certification Statement completed by the health care provider is required to support an employee's claim for leave on account of his or her own serious health condition or to care for the serious health condition of an immediate family member. Certification must include the date on which the serious health condition commenced; the probable duration of the condition; and, the appropriate medical facts within the knowledge of the health care provider regarding the condition. It may be necessary for a representative from the Human Resources Department to contact the physician for clarification.
- H. In the case of the employee's own serious health condition, a statement that the employee is unable to perform the essential functions of his/her position must be provided.
- I. If an employee must take leave to care for an immediate family member, a medical certification is needed regarding the reasons an eligible employee is needed to care for the immediate family member, the nature of the care he/she will provide, and an estimate of the time needed to care for that immediate family member.

- J. An employee who has questions or concerns regarding his/her FML request should contact the Human Resources Department.
- V. Approval of Requests
- A. CCPS reserves the right to determine, based on information provided, whether the requested leave qualifies for FML.
 - B. CCPS, in its discretion, may require a second medical opinion and periodic recertification, at its own expense. If the first and second medical opinions differ, CCPS may require, at its own expense, the opinion of the third healthcare provider, jointly approved by CCPS and the employee. A copy of the employee's job description will be provided to the physician to evaluate fitness for duty. The opinion of the third health care provider will be final and binding.
 - C. Denial of a FMLA leave request may be appealed to the Superintendent or designee.
- VI. Leave Use
- A. The employee's accrued sick, personal, and annual leave will be used concurrently during period the employee is on FML, and the employee will receive paid leave until his/her accrued leave is exhausted. However, in no event shall such leave exceed an aggregate of sixty (60) work days in any fiscal year.
 - B. If an employee does not have enough accrued leave to cover the period of FML, then the employee's absences will be unpaid leave for the remainder of FML.
 - C. In any case in which both spouses, who are employed with CCPS, are entitled to FML, the aggregate number of work days of leave to which both are entitled to is limited to 60 work days during any fiscal year for the birth or adoption of a child.
 - D. Employees on FML because of a serious health condition or a serious health condition of an immediate family member may be requested to provide, at reasonable intervals, periodic medical updates pertaining to the individual's health status.
 - E. 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. 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.
 - B. The eligible employee is subject to the notification requirements in Section III above.
 - C. The employee has a duty to make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the school, subject to the approval of the health care provider.
 - D. The employee must submit in writing to CCPS, the dates and duration of the treatment and a statement about the medical necessity for intermittent leave or reduced work schedule.
 - E. CCPS will attempt 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 it is determined that such a change is for the good of the school system.

- F. 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 twenty (20) percent of the work schedule, CCPS 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.

VIII. Retention of Employee Benefits During Leave

- A. Any eligible employee who takes leave shall be entitled, upon return from such leave, to be restored to the employee's position of employment held prior to the commencement of leave, or to an equivalent position with equivalent employment benefits, pay, and other conditions of employment. The use of FML will not result in the loss of any benefits accrued prior to the date leave commenced.
- B. As a condition of the restoration of employee benefits, an employee who takes FML because of his or her own serious health condition must receive certification from the health care provider indicating that the employee is able to resume work.
- C. CCPS may deny restoration to a salaried employee, who is among the highest paid ten percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed, if: (a) such denial is necessary to prevent substantial and grievous economic injury to the operations of CCPS; (b) CCPS notifies the employee of its intent to deny restoration on such basis and at such time that it determines that such injury would occur; and (c) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.
- D. Determinations regarding restoration of employment of employees who serve in an instructional capacity shall be in accordance with the system's policies and practices and any collective bargaining agreement, if applicable.
- E. CCPS will maintain health care coverage under its group health plan to an employee who is granted an approved leave of absence at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.
- F. The Human Resources Department will provide the employee with an Maryland State Retirement Agency Form 46 - Qualifying Leave of Absence Form to complete when leave is used for the employee's own serious health condition or birth/adoption of a child.

IX. Leaves Taken Near the End of an Academic Term - Provisions for Instructional Employees

- A. The following provisions apply to employees who are employed principally in an instructional capacity by CCPS and who are requesting leave to care for a family member

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with a serious health condition or because of the employee's own serious health condition. The main function of that employee must be to directly provide educational instruction. Teacher assistants, cafeteria workers, building service workers, and other primarily non-instructional roles are not covered by these provisions.

1. 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 Director of Human Resources or designee.
2. An instructional employee may be required to continue on leave for the remainder of an academic term if:
 - a. A leave is five weeks or more before the end of a term, and
 - b. The leave is for three weeks or more, and
 - c. The employee intends to return during the three weeks before the end of the term.
3. 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:
 - a. The absence is during the five week period before the end of the academic term, and
 - b. The leave is two weeks or more, and
 - c. The employee intends to return to work during the two week period before the end of the term.
4. 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:
 - a. The absence is during the three weeks before the end of an academic term, and
 - b. The approved leave lasts more than five working days.

X. Return to Work

- A. Employees are expected to return to work immediately following the expiration of FML. However, if an eligible employee is unable to return to work at the expiration of the FML, the employee may request a medical leave of absence for the remainder of the school year. Such requests must follow procedures and criteria established by the Human Resources Department. In addition, the employee may consider resignation or retirement, depending on his/her circumstances.
- B. An employee must provide, in writing, an anticipated date of return to the normal work schedule. Prior to returning to work, the employee must provide medical documentation certifying that he/she is able to perform the functions of his/her job. This documentation should include work restrictions, if any, for consideration by the employer.

XI. Failure to Return to Work

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- A. If an eligible employee fails to return to work after the expiration of FML, the employee will be required to reimburse the CCPS for any medical and health premiums paid for the employee during FML, unless waived by the Director of Human Resources.
- XII. Savings Clause
 - A. Nothing in this procedure shall be read to eliminate or reduce any rights provided in negotiated agreements with employee groups.