



## Clayton County Public Schools Division of Human Resources Family and Medical Leave

### Frequently Asked Questions

### **Please Read Carefully**

#### ***What is Family and Medical Leave Act (FMLA)***

The Family and Medical Leave Act of 1993 is a federal law that provides covered employees with the right to an unpaid leave of absence for up to 12 work weeks within a 12-month period, in order to address certain personal and or family medical responsibilities. There is a provision expanding the leave up to 26 weeks during a single 12-month period to care for certain family members whose serious injury or illness was incurred or aggravated in the line of active military duty.

#### **Q1 *Which employees are eligible to take FMLA?***

- Employees are eligible to take FMLA if they have been employed with CCPS for at least 12 months and who have worked 1250 hours preceding their request for FMLA.

#### **Q2 *Do the 1250 hours include paid leave time or other absences from work?***

- No. The 1250 hours includes only those hours actually worked for CCPS (the employer). Paid leave and unpaid leave, including FMLA leave, holidays, and periods of suspension and furlough are not included.

#### **Q3 *How much notice must an employee give before taking FMLA leave?***

- An employee must give at least 30 days advance notice when the leave is foreseeable.  
Examples of foreseeable medical reasons:  
*Expected birth, adoption or foster care, planned medical treatment such as surgery*

#### **Q4 *How much notice must an employee give if leave is unforeseeable?***

- An employee is required to provide notice of the need for leave as soon as practical. (within 6 days)  
Examples of unforeseeable medical reasons:  
*An employee has a heart attack, stroke, appendicitis, or a car accident*



**Q5    *How much leave is an employee entitled to under FMLA?***

- If an employee meets the criteria, he or she will be entitled to take up to 12 workweeks of leave during a 12-month period, or up to 26 weeks if leave is taken for a covered service member.

**Q6    *How many days can you be absent before you have to provide medical documentation?***

- Six consecutive work days; however, on the 7<sup>th</sup> day medical documentation has to be provided to cover the absences or the employee will be coded leave without pay (LWOP) and recommended for disciplinary action. **PLEASE NOTE:** *A supervisor may also request a certificate from a physician for an absence less than six days.*

**Q7    *What information may an employer request regarding an employee's medical condition?***

- Employers may request a complete and sufficient medical certification that documents the basis for an employee's request, the period for which leave is being requested, and the anticipated return to work date.

**Q8    *Can an employee take FMLA leave "Intermittently"?***

- An employee is entitled to take FMLA leave intermittently, separate blocks of time or as a reduced work schedule, rather than as a continuous absence for reason such as:
  - When certified as medically necessary for a serious health condition of the employee, spouse, child, or parent
  - When certified as medically necessary to care for a covered service member's serious injury or illness
  - For a qualifying exigency arising out of a spouse, child, or parent's military duty
  - Activities needed for adoption or foster care placement

**Q9    *Can an employee use leave taken due to pregnancy complications against the 12 workweeks of FMLA leave for the birth of a child?***

- Yes. An eligible employee is entitled to a total of 12 workweeks of FMLA leave in a 12-month period. If the employee has to use leave for reasons arising from pregnancy complications prior to child birth, the leave will be counted as part of the 12-week FMLA leave entitlement.



**Q10** *What happens if an employer determines that the medical certification is incomplete?*

- The Human Resource Absence Management Analyst will notify you in writing that your certification is incomplete, advise you what additional information is needed and provide you with 7 calendar days to return the completed certification. If the requested information is not submitted within 7 days the request will be denied and if you do not return to work; the District will proceed with administrative action.

**Q11** *What happens if an employee does not submit a requested certification?*

- If an employee fails to timely submit a complete and sufficient certification to support the use of FMLA leave, FMLA protection for the leave may be delayed or **denied**.

**Q12** *Can an employer deny an employee's request for FMLA leave?*

- If the employee does not meet the requirements for FMLA, it can be denied for the following reasons:
  - a. If medical documentation is not sufficient and employer has attempted to obtain sufficient information through the employee and the employee does not comply
  - b. The leave of absence request is less than 10 days
  - c. The request was received after the employee returned to work

**Q13** *How often may an employer ask for medical certifications for an on-going serious health condition?*

- An employer can ask an employee who is on leave, for recertification every 30 days unless the employee has previously submitted medical certification that the condition will last for more than 30 days.

**Q14** *May employers require employees to submit a fitness-for-duty certification before returning to work after being absent due to a serious health condition.*

- Yes. CCPS policy requires all employees who take leave for their own serious health condition to submit a certification from the employees' healthcare provider that the employee is able to resume work. If an employee fails to submit a properly requested fitness-for-duty certification, the employer may delay job restoration until the employee provides the certification. If the employee never provides the certification, he or she **will** be denied reinstatement.



**Q15 *Can an employer terminate someone for taking approved FMLA leave?***

- No. It is unlawful for any employer to interfere with or restrain or deny the exercise of any right provided under FMLA. Employers cannot use the taking of FMLA leave as a negative factor in employment decisions. An employee may be disciplined, however, for fraudulently taking FMLA leave.

**Q16 *What is Medical Leave?***

- A type of leave not required by law; however, can extend to an employee who does not qualify for Family and Medical Leave.

**Q17 *Who qualifies for Medical leave?***

- An employee who has been employed less than 12 months and has worked a minimum of 90 days.

**Q18 *What is the relationship between FMLA/Medical Leave and Workers Compensation?***

- CCPS will designate Worker's Compensation leave of absences greater than six (6) consecutive work days of being absent as Family Medical Leave or Medical Leave. *Worker's Compensation and FMLA can run concurrently.*

**Q19 *What happens when an employee exhausts FMLA leave but is still not fit to return to regular duty?***

- A situation may arise where an employee has exhausted the 12 weeks of FMLA or Medical Leave but is not medically cleared to return to work. CCPS will interact with the employee to determine whether the employee's medical condition rises to the level of a disability as defined by the Americans with Disabilities Act, and if so, is there a reasonable accommodation available.



## **ADDITIONAL INFORMATION**

### ***What are the steps for applying for FML?***

- Consult with your health care provider and provide the Certification of Health Care Provider form in the event you will be absent for 10 days or more.
- Complete the Medical Leave of Absence Request form and submit with your Certification of Health Care Provider form to Human Resources.
- You **must** notify your administrator/bookkeeper concerning your leave.
- All forms must be submitted to the Human Resource Federal Leave Analyst, Deaira Palmer at the Central Office location.
- Once your leave has been processed, you will be notified via email.

***What type of paid or unpaid leave do I take?*** Employees are required to exhaust all paid leave (sick and annual) available. Once all leave is exhausted, leave without pay will be entered.

***Will my benefits continue under FMLA/Medical leave?*** Benefits are paid as long as sick or annual leave has not been exhausted. When paid leave is exhausted, a letter will be sent to the employee to advise of Premium amount and when it is due. GA Breeze will send the employee an invoice to pay benefits while on leave. If you fail to receive an invoice, please contact the Benefits Department and speak with:

***NOTE: Failure to submit premiums will result in immediate loss of coverage. It is the employee's responsibility to ensure payments are received timely.***