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OFFICE: ASSOCIATE SUPERINTENDENT FOR ADMINISTRATIVE SERVICES

## FAMILY AND MEDICAL LEAVE

**SCOPE:** This regulation applies to all employees meeting the eligibility requirements of the Federal Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

**PURPOSE:** To define circumstances under which employees are eligible for or considered to be on Family Medical Leave as outlined in federal law.

### REGULATION:

#### I. Definitions:

Employee Benefits -- means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of the Board or through an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(3) ("ERISA").

Week - means the employee's normal workweek (e.g., 35 hours)

Board -- refers to the Board of Education of Cecil County. Specific benefit eligibility issues and collective bargaining agreements will apply for the purpose of FMLA.

Parent -- means a biological, adoptive, step or foster father or mother, or any other individual who stands or stood in "loco parentis" to an employee when the employee was a child. This term does not include parents "in-law."

Son or Daughter -- means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in "loco parentis," who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. The onset of a disability may occur at any age for purposes of the definition of an adult "son or daughter" under the FMLA.

Spouse -- means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a same-sex marriage or common law marriage. Spouse also includes a husband or wife in a marriage that was validly entered into outside of the United States, if the marriage could have been entered into in at least one State.

Next of Kin – The next of kin of a current service member is the nearest blood relative, other than the current service member’s spouse, parent, son or daughter, in the following order of priority:

1. A blood relative who has been designated in writing by the service member as the next of kin for FMLA purposes.
2. Blood relative who has been granted legal custody of the service member.
3. Brothers and sisters
4. Grandparents
5. Aunts and uncles
6. First cousins

Incapacity -- for purposes of FMLA, is defined to mean an inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

Treatment -- includes examinations to determine if a serious health condition exists and evaluations of an existing condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

Regimen of continuing treatment -- includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, and other similar activities that can be initiated without a visit to a healthcare provider.

## **II. General Guidelines:**

The Board recognizes that employees occasionally need to take time away from work to care for important family and medical needs. This regulation is designed to meet those needs in a manner that is beneficial to employees, their families, and the Board, while at the same time, representing the intent of the Board to comply with the requirements of the Family and Medical Leave Act of 1993 (“FMLA”).

The provisions of this regulation shall not supersede any state or local laws or collective bargaining agreements that provide greater employee leave benefits than are offered in this regulation. The Board will run FMLA concurrently with all leaves for which the employee is eligible, including but not limited to, sick leave, annual leave, disability leave, and workers' compensation. The maximum amount of leave an employee may use is either 12 or 26 weeks within a 12-month period depending on the reasons for the leave.

## **III. Conditions Triggering Leave**

Eligible employees may be entitled to take a leave of absence for the following reasons:

1. The birth of a child, and to care for newborn child within the first year of birth (up to 12 weeks);
2. The placement with the employee of a child under the age of 18 for adoption or for foster care and to care for the newly placed child within one year of placement (up to 12 weeks);
3. A serious health condition that prevents the employee from performing the essential function(s) of his or her position.
4. To care for the employee's spouse, child, or parent, with a serious health condition (up to 12 weeks);
5. To care for a covered service member with a serious injury or illness related to certain types of military service if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (see Military-Related FMLA Leave for more details). Covered service member leave also applies to veterans for up to five (5) years from the date of discharge (up to 26 weeks); or

6. To handle certain qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or call to "covered active duty" status in the Uniformed Services (up to 12 weeks) (see Military-Related FMLA Leave for more details).

The maximum amount of leave that may be taken in a 12-month period for all reasons combined is 12 weeks, with one exception. For leave to care for a Covered Service Member, the maximum combined leave entitlement is 26 weeks, with leave for all other reasons constituting no more than 12 of those 26 weeks.

#### **IV. Eligibility**

To be eligible for FMLA leave, an employee must:

1. Have worked at least 12 months for the Board in the preceding seven years (limited exceptions apply to the seven-year requirement);
2. Have worked at least 1,250 hours for the Board during the preceding 12 months; and
3. Currently works at a location where there are at least 50 employees within 75 miles.

All periods of absence from work due to or necessitated by service in the uniformed services are counted in determining FMLA eligibility.

#### **V. Spouses Working for the Board**

If both spouses are employed by the Board, and request leave for the birth, placement of a healthy child by adoption or for foster care, to care for a parent with a serious health condition, or due to a family member's call to active duty, each individual is entitled to a maximum combined total leave equal to 12 weeks in any 12-month entitlement period. Spouses may each take up to 12 weeks of FMLA leave for other FMLA-qualifying reasons, such as their own serious health condition or if they need to care for their newborn, adopted child or foster child with a serious health condition, or spouse with a serious health condition; not to exceed a total of 12 weeks within any 12-month entitlement period. The combined leave for spouses working for the Board is limited to 26 weeks when leave is to care for an injured or ill service member, or such leave is taken in combination with leave for either birth, care and/or placement of a child, to care for the employee's parent, or due to a family member's call to active duty.

#### **VI. Calculating Employee Leave Eligibility**

The Board measures the 12-month entitlement period in which employees can take FMLA leave for the qualifying reasons listed above, by the "rolling" 12-month method, measured backward from the date an employee uses any FMLA leave.

**Service member leave.** It is important to note, however, that a single 12-month period of leave to care for a covered service member with a serious illness or injury begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date, regardless of the calculation method used for other FMLA leave reasons.

#### **VII. Variable Work Schedule**

If an employee's schedule varies from week to week, a weekly average of the hours scheduled over the 12 months prior to the beginning of the leave period (including any hours for which the employee took leave of any type) will be used for calculating the employee's leave entitlement. (For example, an employee who works 28

hours per week and requested intermittent leave would only have 336 eligible hours of leave - 12 weeks X 28 hours).

### **VIII. Intermittent or Reduced Schedule Leave**

If it is medically necessary or related to a family military leave situation, FMLA leave may be taken on an intermittent or reduced schedule basis. Intermittent or reduced schedule leave will be tracked and applied toward the 12-week or 26-week maximum leave period as defined above.

1. Additional Requirements -- As noted on the FMLA Request Form (Exhibit #1), the employee must explain the medical reason for an intermittent or reduced schedule leave and must support the reason with the appropriate medical certification. Furthermore, the employee must inform the Board about his/her anticipated treatment schedule and the reasons for his/her proposed schedule.
2. Alternative Position or Schedule -- The Board may require the employee to work in a different position or on a different schedule during the period of an intermittent or reduced schedule leave that will better accommodate the necessities of his/her schedule and the needs of the school system, including (where applicable) continuity of instruction. The alternative position will have the same pay and benefits as the position the employee held prior to commencement of the law.
3. Birth or Adoption of a Child -- Intermittent leave cannot be taken for the birth, bonding, or adoption of a child, unless the employee and the Board agree otherwise in writing.

### **Requirement to Minimize Disruption for Planned Medical Treatment**

For all leave involving planned medical treatments, including intermittent and reduced schedule leave, the employee is obligated to plan for treatments so that they will cause the least disruption to the Board's operations and the continuity of instruction, where applicable. By providing the earliest possible notice to the Board and maintaining flexibility in scheduling medical appointments, the employee can greatly assist in making certain that minimal disruption occurs. For example, the scheduling of physician appointments and physical therapy should be scheduled before or after the employee's regularly scheduled work hours if possible.

### **Reporting Use of Intermittent Leave Usage to the Board**

In the event intermittent leave is used, days must be reported the Benefits Office via email at [benefitsinfo@ccps.org](mailto:benefitsinfo@ccps.org), or by phone at (410) 996-5415 within one week of use to be protected under the Family Medical Leave Act.

### **IX. Compensation During Leave**

FMLA leave under this regulation is without pay, although the employee may be eligible for disability payments and/or workers' compensation benefits under those insurance plans or policies. An employee will be required to use accrued, unused paid time off benefits (annual, sick leave, personal leave, etc.) for which he/she is eligible in conjunction with any unpaid FMLA leave.

In no case, can the use of accrued paid time off benefits result in the receipt of more than 100% of one's salary. Further, the substitution of paid leave time for unpaid leave time does not extend the 12-week leave period. Your family/medical leave runs concurrently with other types of leave (i.e., annual, sick, personal, workers' compensation, etc.). The Board will permit employees taking intermittent leave to have such leave charged against their available paid leave time, such as annual leave pay, in the lowest trackable increment.

FMLA will run concurrently with all other leaves (i.e., sick, annual, personnel, workers' compensation, disability plans, etc.) for which the employee is eligible.

FMLA leave shall not be considered as time worked for overtime purposes. Holidays that occur within a week taken as FMLA have no effect and the entire week will be counted as FMLA. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Employees shall accrue annual leave and sick leave at their appropriate rates while on FMLA leave.

#### **X. Notifying the Board**

Employees needing leave must complete and return the FMLA Employee Leave Request form, found on the CCPS website, under the Employee Benefits section.

Employees and/or their spokesperson should provide as much information as is necessary for the Board to be able to designate the leave as FMLA leave; for example, calling in sick without providing more information is not sufficient notice to designate the leave. When an employee seeks leave due to a FMLA-qualifying reason for which he/she has previously been provided FMLA leave, he/she must specifically reference the qualifying reason for leave or the need of FMLA leave.

1. Foreseeable Events -- When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the Board at least 30 days notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin in less than 30 days from the date of notice to the Board, the employee must provide such notice as soon as practicable. It should be practicable for the employee to provide notice either the same day or next business day.

Where the need for leave is for reasons relating to a family member's Armed Forces active duty and such leave is foreseeable, the employee must give notice as soon as is reasonable and practicable.

Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must:

- a) Give at least 30 days notice, or as soon as practical, if treatment starts in less than 30 days; and,
- b) Consult with the Board and make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Board, subject to the approval of the health care provider.

2. Unforeseeable Events -- For unforeseeable events, such as accidental injury or illness causing a serious health condition, premature birth, or a sudden change in an employee's health, the employee must notify the Board of his/her need for leave within two (2) business days of when the need for leave becomes known, except for extraordinary circumstances.

3. Failure to Comply -- Failure to follow these practices may result in delay or denial of the leave request.

#### **XI. Notice from the Board**

Upon receiving the completed FMLA Employee Leave Request Form, or when the Board acquires knowledge that an employee's leave may be for an FMLA qualifying reason, the Benefits Office will complete and send to the employee the Notice of Eligibility and Rights and Responsibilities form within five business days. If applicable, the appropriate Certification Form to be completed by the employee and applicable third party will also be included. See Sections XII, XIII, and XIV for more information on certifications.

Once sufficient information for determining whether an employee's leave will be protected by the FMLA has been received, the Benefits Office will complete and provide to the employee a Designation Notice Form within five business days. Leave requests that have met the requirements for FMLA protection by supplying the appropriate Certification Form or medical documentation, will be designated as such by the Board. If the employee chooses not to apply for protected leave under the FMLA, the Board may provide the employee with the FMLA Designation Notice stating that such leave will not be protected.

Leave may be retroactively designated as FMLA leave with appropriate written notice to the employees, provided the Board's failure to designate leave as FMLA qualifying at an earlier date did not cause harm or injury to the employee. In all cases where leaves qualify for FMLA protection, the Board and employee can mutually agree that leave be retroactively designated as FMLA leave. Leave will only be retroactively designated as FMLA up to one year prior to the date the employee notified the Benefits Office of the need for a qualifying absence.

## **XII. MEDICAL CERTIFICATION**

An employee requesting FMLA leave for his or her own serious health condition or for the serious health condition of a covered family member must provide a Certification of Health Care Provider Form to verify the serious health condition causing the need for a leave. The medical certification must be completed by a qualified health care provider.

1. A Serious Health Condition - an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement includes an incapacity of more than three full calendar days and at least two visits to a health care provider within 30 days of the date of incapacity or one visit to a health care provider and a continuing regimen of care; an incapacity caused by pregnancy or prenatal visits, a chronic condition, or permanent or long-term conditions; or absences due to multiple treatments and recovery from treatments. Other situations may meet the definition of continuing treatment.

2. Timing of Certification -- The completed medical certification form must be submitted no later than 15 calendar days following the date the Board notifies the employee of the need for certification. For leaves that are foreseeable, the medical certification form should be provided before leave begins.

If the certification received is incomplete or insufficient, the employee will be advised in writing what additional information is necessary to make the certification complete and sufficient. Employees will be provided seven calendar days to amend such certifications and provide appropriate information unless it is not practicable under the employees' circumstances. Certifications that are not returned to employers are considered as employee's failure to provide certification.

The Board (through individuals other than an employee's direct supervisor) may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide the Board with authorization allowing it to clarify or authenticate certifications with health care providers, the Board may deny FMLA leave if certifications are unclear.

3. The Board may also exercise its right to obtain a second opinion at its own expense if it wants to confirm the first opinion. The Board designates or selects the physician or practitioner for the second opinion. If the medical opinion of the first and second physician differs, then the Board reserves the right to require a third

medical opinion, at its own expense, by a physician or practitioner jointly approved by the employee and the Board. The third opinion is binding.

4. The Board reserves the right to request recertification of medical conditions giving rise to the need for leave. The Board will notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification. Further, employees are required to provide new medical certifications each leave year for FMLA leave due to their own or their family member's serious health condition that continues beyond a single leave year. Such new medical certifications are subject to the same authentication and clarification requirements as other medical certifications.

### **XIII. Active Duty Certification**

Employees are required to provide a copy of active military orders and a complete and sufficient Certification of Qualifying Exigency for Military Leave Form when the employees' circumstances qualify for a qualifying exigency. The Board may contact, without the employee's permission, a third party if leave involves a meeting with a third party to verify the schedule and nature of the meeting and/or the appropriate unit of the U. S. Department of Defense to verify that service members are on active duty or call to active duty status.

### **XIV. Military Care Giver Certification**

Employees who request leave to care for a covered military service member must provide the Certification for Serious Injury or Illness of Covered Service Member for Military Leave Form completed by an authorized health care provider, as well as, confirmation of their family relationship to the covered service member, to the Board. Health care providers from the U. S. Department of Veterans Affairs, U. S. Department of Defense, and DOD TRICARE network and non-work private health care providers are authorized to complete certifications for such leave. The Board also will accept invitational travel orders (ITOs) or invitational travel authorizations (ITAs) as sufficient certification in accordance with federal law.

Whenever certification is requested, employees must provide the Board with complete and sufficient certification within 15 calendar days. The Board can request clarification or authentication of information in certifications. However, the Board will not require second or third opinions or recertification for leave to care for a service member with a serious illness or injury.

### **XV. Failure to Comply**

If an employee fails to provide timely certification within 15 calendar days of being asked to do so by the Board, the Board may deny the employee leave until the required certification is provided. An employee who fails to follow these guidelines or who falsifies any information related to the medical certification, may cause their leave to be delayed or denied and may be subject to discipline, up to and including discharge.

### **XVI. Outside Employment During Leave**

Employees who begin another job while on family/medical leave or any other authorized leave of absence. Doing so is grounds for immediate termination, to the extent permitted by law.

### **XVII. Return to Work**

1. An employee should provide the Benefits Office with periodic reports concerning intent and clearance to return to work. An employee should give the Board at least two (2) days notice of intent to return to work earlier than anticipated.

2. At the end of the designated leave period, or when leave no longer qualifies as FMLA, whichever comes first, the employee is expected to return to work the next business day. Failure to do so will result in disciplinary action up to and including termination. For example, if the employee is on FMLA leave to care for the serious health condition of a family member and that family member dies, FMLA ends on the date of death.

3. Employees who return from FMLA leave will be reinstated to their former positions or to positions with equivalent pay, benefits, and other employment terms and conditions. They also will receive any unconditional pay increases or eligible bonuses that were distributed during their FMLA leave.

4. If leave was taken for an employee's own serious health condition, the employee will be required to present a Fitness for Duty Certification form or a note from the treating physician prior to returning to work. Reinstatement will be contingent upon the employee's ability to perform all of the essential functions of the job. Reasonable accommodations will be made to the extent required by law. An employee will not be returned to work without the proper documentation from the healthcare provider. Failure to submit a Fitness for Duty Certification or a note from the treating physician may result in the denial of restoration to employment following FMLA leave.

#### **XVIII. Administrative Separation**

Regardless of the reason for family and medical leave, employees who fail to return at the end of their designated leave period, may be administratively separated from their employment, unless otherwise provided by law.

#### **XIX. Health Insurance During Leave**

1. During FMLA leaves of absence, the Board will continue to pay its portion of the health insurance premiums and the employee must continue to pay his or her share of the premium. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage. If the employee fails to timely pay the employee's share of health insurance premium, the employee will have a grace period of 30 days. At least 15 business days before the expiration of the grace period, the Board will mail a written notice to the employee informing the employee of the date the insurance will expire if the employee's share of the premium is not paid.

2. Coverage may stop if the Board is advised or discovers that an employee does not intend to return to employment or if he/she does not return to his/her employment at the end of the approved leave. In these cases, the employee may be requested to reimburse the Board for any premiums it had paid on his/her behalf during the leave, unless the reason the employee did not return to work was because of a continued serious health condition or for other reasons beyond the employee's control as identified in the FMLA standard. In that case, the employee must submit to the Board a certification from a health care provider that he/she is unable to return to work because of the continuation, recurrence, or onset of the serious health condition.

#### **XX. Exemption for Highly Compensated Employees**

Certain "key" employees, who are among the highest 10% of paid employees might not be reinstated to any position. "Key" employees will be notified of their status in writing when they apply for FMLA leave and will receive notice at that time of the potential consequences, with respect to reinstatement and maintenance of health benefits, if they are not reinstated. The Board will notify "key" employees in writing the reasons for



denying reinstatement when such decision is made. The Board will make a final determination whether to reinstate "key" employees if they request job restoration and will notify those employees in writing regarding the Board's final determination.

#### **XXI. Special Provisions Governing Instructional Employees**

For purposes of this provision of the regulation, "instructional employee" means a classroom teacher or paraprofessional.

If an instructional employee begins leave more than five weeks before the end of an academic term, the Board reserves the right to require the employee to continue taking leave until the end of the term if (1) the leave will last at least three weeks; and (2) the employee would return to work during the three week period before the end of the term.

If an instructional employee commences an FMLA leave for a purpose other than his/her own serious health condition during the five week period before the end of a term, the Board reserves the right to require the employee to continue taking leave until the end of the term if: (1) the leave will last more than two weeks; and (2) the employee would return to work during the two week period before the end of the term.

If an instructional employee commences an FMLA leave for a purpose other than his/her own serious health condition during the three week period before the end of a term, and the leave will last more than five working days, the Board reserves the right to require the employee to continue taking leave until the end of the term.

#### **XXII. Questions and/or Complaints about FMLA Leave**

The FMLA makes it unlawful for employers to: 1) interfere with, restrain, or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If employees believe their FMLA rights have been violated, they should contact the Human Resources Department immediately. The Board will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

Questions regarding this regulation, or concerning leave entitlements or obligations that might arise when FMLA leave is either not available or exhausted, should be directed to the Benefits Office. The Board is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this regulation in a manner consistent with the FMLA.

#### **Military Caregiver Leave**

Unpaid Military Caregiver Leave is designed to allow eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty. Military Caregiver Leave is a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period.

To be "eligible" for Military Caregiver Leave, the employee must be a spouse, son, daughter, parent, or next of kin of the covered service member. "Next of kin" means the nearest blood relative of the service member, other than the service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins; unless the service member has

specifically designated in writing another blood relative as his or her nearest blood relative for purposes of Military Caregiver Leave. The employee must also meet all other eligibility standards as set forth within the FMLA Leave regulation.

An eligible employee may take up to 26 workweeks of Military Caregiver Leave to care for a covered service member in a “single 12-month period.” The “single 12-month period” begins on the first day leave is taken to care for a covered service member and ends 12 months thereafter, regardless of the method used to determine leave availability for other FMLA-qualifying reasons. If an employee does not exhaust his or her 26 work weeks of Military Caregiver Leave during this “single 12-month period,” the remainder is forfeited.

Military Caregiver Leave applies on a per-injury basis for each service member. Consequently, an eligible employee may take separate periods of caregiver leave for each and every covered service member, and/or for each and every serious injury or illness of the same covered service member. A total of no more than 26 work weeks of Military Caregiver Leave; however, may be taken within any “single 12-month period.”

Within the “single 12-month period” described above, an eligible employee may take a combined total of 26 weeks of FMLA leave including up to 12 weeks of leave for any other FMLA-qualifying reason (i.e., birth or adoption of a child, serious health condition of the employee or close family member, or a qualifying exigency). For example, during the “single 12-month period,” an eligible employee may take up to 16 weeks of FMLA leave to care for a covered service member when combined with up to 10 weeks of FMLA leave to care for a newborn child.

An employee seeking Military Caregiver Leave may be required to provide appropriate certification from the employee and/or covered service member and completed by an authorized health care provider within 15 calendar days. Military Caregiver Leave is subject to the other provisions in our FMLA Leave regulation (requirements regarding employee eligibility, appropriate notice of the need for leave, use of accrued paid leave, etc.). Military Caregiver Leave will be governed by, and handled in accordance with, the FMLA and applicable regulations, and nothing within this regulation should be construed to be inconsistent with those regulations.

### **Qualifying Exigency Leave**

Eligible employees may take unpaid “Qualifying Exigency Leave” to tend to certain “exigencies” arising out of the covered active duty or call to covered active duty status of a “military member” (i.e., the employee’s spouse, son, daughter, or parent). Up to 12 weeks of Qualifying Exigency Leave is available in any 12-month period, as measured by the same method that governs measurement of other forms of FMLA leave within the FMLA regulation (with the exception of Military Caregiver Leave, which is subject to a maximum of 26 weeks of leave in a “single 12-month period”). Although Qualifying Exigency Leave may be combined with leave for other FMLA-qualifying reasons, under no circumstances may the combined total exceed 12 weeks in any 12-month period (with the exception of Military Caregiver Leave as set forth above). The employee must meet all other eligibility standards as set forth within the FMLA regulation.

Persons who can be ordered to active duty include active and retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members including the Ready Reserve, the Selected Reserve, the Individual Ready Reserve, the National Guard, state military, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.

A call to active duty refers to a federal call to active duty, and state calls to active duty are not covered unless under order of the President of the United States pursuant to certain laws. Qualifying Exigency Leave is available under the following circumstances:

- (1) Short-notice deployment - to address any issue that arises out of short notice (within seven days or less) of an impending call or order to covered active duty.
- (2) Military events and related activities - to attend any official military ceremony, program, or event related to covered active duty or call to covered active duty status or to attend certain family support or assistance programs and informational briefings.
- (3) Childcare and school activities - to arrange for alternative childcare; to provide childcare on a non-routine, urgent, immediate need basis; to enroll in or transfer to a new school or daycare facility; or to attend meetings with staff at a school or daycare facility. The employee taking FMLA qualifying exigency leave does not need to be related to the military member's child. However, (1) the military member must be the parent, spouse, son or daughter of the employee taking FMLA leave, and (2) the child must be the child of the military member (including a child whom the military member stands in loco parentis).
- (4) Financial and legal arrangements - to address a military member's absence while on covered active duty, including preparing and executing financial and health care powers of attorney, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), or obtaining military identification cards.
- (5) Counseling - to attend counseling (by someone other than a health care provider) for the employee, for the military member, or for a child of the military member when necessary as a result of duty under a call or order to covered active duty.
- (6) Temporary rest and recuperation - to spend time with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 calendar days of leave for each instance of rest and recuperation.
- (7) Post-deployment activities - to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the military member's active duty status. This also encompasses leave to address issues that arise from the death of a military member while on active duty status.
- (8) Parental care - to care for the military member's parent who is incapable of self-care, such as arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility, and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers. The employee taking FMLA qualifying exigency leave does not need to be related to the military member's parent. However, (1) the military member must be the parent, spouse, son or daughter of the employee taking FMLA leave, and (2) the parent must be the parent of the military member (including an individual who stood in loco parentis to the military member when the member was a child).
- (9) Mutually agreed leave - other events that arise from the military member's duty under a call or order to active duty, provided that the Board and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave.

An employee seeking Qualifying Exigency Leave may be required to submit appropriate supporting documentation in the form of a copy of the military member's active duty or rest and recuperation orders or other military documentation indicating the appropriate military status and the dates of active duty status, along with a statement setting forth the nature and details of the specific exigency, the amount of leave needed and the employee's relationship to the military member, within 15 calendar days. Qualifying Exigency Leave will be governed by, and handled in accordance with the FMLA and applicable regulations, and nothing within this regulation should be construed to be inconsistent with those regulations.

This regulation should not be construed to confer any express or implied contractual relationship or rights to any employee not expressly provided for by FMLA. The Board of Education reserves the right to modify this or any other regulation as necessary, in its sole discretion to the extent permitted by law.