

What is the Family and Medical Leave Act (FMLA)?

Please Read This Information Completely and Carefully

The Family and Medical Leave Act of 1993 requires Henry County Schools to provide up to employees who have been employed for 12 months and have worked at least 1250 hours during the 12 months preceding the commencement of the leave requested and are classified in their position /job title as a full-time employee up to 60 days of **unpaid**, job-protected leave during a 12-month period, in order to address certain personal and or certain family member's serious medical conditions (**Please refer to the FMLA policy for details by [clicking here](#)**). There is also a provision under FMLA for military family leave entitlements where a spouse, child, or parent is on covered active (overseas) duty, called to a covered active (overseas) duty and is needed to address certain qualifying exigencies.

FMLA provides that if the employee returns to work prior to or on the first scheduled day following the 60th approved FMLA day, the employee will be reinstated to the same job or an equivalent job with the same pay, benefits, and terms and conditions of employment. Approved FMLA also provides attendance protection. The FMLA attendance, job, and benefit protection is exhausted with the 60 FMLA day maximum.

FMLA Frequently Asked Questions

Do the 1250 hours include paid leave time or other absences from work? No. The 1250 hours includes only those hours actually worked for HCS (the employer). Paid leave, unpaid leave, personal holidays, administrative leave are not included.

How much notice must an employee give their employer before taking FMLA? 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.

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

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 15 days) Examples of unforeseeable medical reasons: An employee has a heart attack, stroke, appendicitis, or a car accident.

How much leave is an employee entitled to under FMLA? If an employee meets the criteria, they will be entitled to take up to 60 days of leave during a 12-month period, or up to 26 weeks, if leave is taken for a covered service member (please refer to the FMLA Policy for further details by clicking [here](#)). FMLA leave can be taken consecutively (Block) or sporadically (Intermittent) except for the bonding time for the birth/adoption/foster care of a child. ***Special Note:*** *If the employee and their spouse work for HCS, each is entitled to 60 days for their own illness or the illness of a child. However, the 60 days must be split between them for the care of a parent, birth/bonding with a newborn, or the newly placed child (adoption or foster care).*

How many days can an employee be absent before they have to apply for FMLA?-- You may apply if you incur three or more cumulative or consecutive workdays however you **MUST** apply if you incur 10 or more cumulative or consecutive days. 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 principal/supervisor may also request medical certification from any absence according to the HCS employees guide and/or school policy.

Can an employee take FMLA "Intermittently"?--An employee is entitled to take FMLA leave intermittently, in separate blocks of time or as a reduced work schedule, rather than as a continuous

absence with the exception of bonding time with the birth, adoption, or foster care placement. However, Intermittent FMLA can be taken for activities needed for adoption or foster care placement. Intermittent leave MUST be reported to the FMLA specialist. **When the leave is foreseeable (appointments, scheduled treatments, etc.), notification must be done no less than 2 days prior to the leave date/s in order to be protected by FMLA. If the leave is unforeseeable (emergency situations only), notification must be done within 15 days following the date of leave/absence.** Reporting leave to the leave entry person at the work location without notification to the FMLA office may result in denial of FMLA for that particular time period.

Can an employee use leave taken due to pregnancy complications toward the 12 workweeks of FMLA for the birth of a child?-- Yes. An eligible employee is entitled to 12 workweeks of FMLA in a 12-month period. If the employee must use leave for reasons arising from pregnancy complications prior to childbirth, be mindful the leave will be counted as part of the 12-week FMLA entitlement.

What medical information may an employer request regarding an employee's/qualifying family member's medical condition?-- Employers may request a complete and sufficient medical certification (thru the eFMLA portal) that documents the need for an employee's FMLA request, the period for which leave is being requested, and the anticipated return to work date. It is the employee's responsibility to ensure the medical certification from the treating physician is provided to the FMLA office.

What happens if an employer determines that the medical certification is incomplete?-- The HR FMLA Specialist will notify you in writing (thru the eFMLA portal) that your certification is incomplete, advise you what additional information is needed and provide you with seven 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 HCS can/will proceed with administrative action.

What happens if an employee does not submit the requested certification?-- If an employee fails to timely submit a complete and sufficient medical certification from their physician to support the use of FMLA, the FMLA protection for the leave may be delayed or denied and proceed with administrative action.

Can an employer deny an employee's request for FMLA leave? -- FMLA leave can be denied for the following reasons:

- a. The employee does not meet the requirements for FMLA.
- b. Medical documentation is not sufficient and employer has attempted to obtain sufficient information through the employee and the employee does not comply
- c. The request has been received after the employee has returned to work

What steps are required to extend an employee's FMLA leave? -- If an employee needs to extend their FMLA approval, they must request the extension via email to the FMLA office and principal/supervisor and provide medical certification to support the additional need for FMLA. The FMLA office 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.

What must an employee do in order to return to work after being absent due to a serious health condition? -- HCS 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 **at least two business days PRIOR to the first day of return to work.** If an employee fails to submit a properly requested fitness-for-duty certification, return to work/job restoration may be delayed until the employee provides the certification. If the employee never provides the certification, he or she will be denied reinstatement.

What happens if an employee can return to work but their physician recommends restrictions/ accommodations to do so? -- Written certification from the treating healthcare provider listing any specific restrictions/request for accommodations described in detail must be provided **at least two business days PRIOR to the first day of planned return to work.** These restrictions/request must be

reviewed to determine by the Restrictions Committee if work is available to reasonably accommodate PRIOR to returning to work from FMLA. If no work is available to reasonable accommodate, approved FMLA will continue (up to 60 FMLA days per FMLA Year then the possibly Approved Extended Leave).

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 but is not medically cleared to return to work. A medical update will be requested in order to determine if the employee meets the qualifications for Approved Extended Leave (AEL) reasonable accommodation available

What is Approved Extended Leave (AEL)?-- A type of leave not required by law however can be extended to an employee who does not qualify for Family and Medical Leave for his or her own serious health condition (not for a family member's condition) or does not meet the eligibility requirement for FMLA.

What is the relationship between FMLA/Medical Leave and Workers Compensation? --HCS will designate Worker's Compensation leave of absences greater than six (6) consecutive workdays of being absent as Family Medical Leave or Medical Leave. Worker's Compensation and FMLA can run concurrently.

What if an employee carries Short Term Disability (STD)?--The Benefits Office should be contacted to complete a request for the use of this policy.

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, the Benefits Office will send a letter to the employee to notify 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 Office and speak with a Benefits Specialists: NOTE: Failure to submit premiums will result in immediate

FMLA Process Steps

- Complete a request for FMLA leave using the following link:
<http://request.efmla.com?A1=35807c15792H016>. **Be sure to check email from "FMLA Administrator" (also junk or spam) for the email to the second step of the request process.**
- Upon receipt of the request form through eFMLA, a FMLA specialist will determine FMLA eligibility and provide the third required document, US DOL Certification of Health Care provider form WH-380-E or WH-380 (ESHC or FMSHC in the eFMLA system) **within five business days**). To complete the employee's application for leave under FMLA, this document MUST be completed and signed by the employer's physician, or by the physician/provider of the employee's spouse, child, or parent if applicable within 15 business days.
- Notify your administrator/bookkeeper concerning your leave and follow the leave reporting protocol for your work location. Consult with your health care provider and have the appropriate forms provided to you within the eFMLA platform completed.
- Ensure all required documents are submitted to the Human Resource FMLA Specialist or completed in the eFMLA portal **within 15 days of receiving the medical certification form.**
- Once your leave has been processed, you will receive a Designation notification via email/eFMLA portal.
- Review the Designation Notice completely including the "Additional Notes" and follow all the instructions including return to work documentation requirements/ Intermittent reporting processes described.

If you have additional questions, please contact the Human Resource Services-FMLA Office at 770-957-6601 ext. 01631 (Stephanie) or ext. 01610 (Cecilia)