Bartlett City Board of Education		5014.1
Descriptor Term: **FAMILY AND MEDICAL LEAVE**	Descriptor Code: **Personnel**	Issue Date: **04/24/2014**
	Rescinds:	Revised: **10/27/2016** **04/23/2020** **07/24/2025** **07/23/2026**

PURPOSE

To entitle eligible employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition.

ELIGIBILITY

Anyone who has been employed for at least twelve (12) months and has at least 1,250 hours of service with Bartlett City Schools (hours used for leave, even FMLA leave, shall not be credited for service for purposes of FMLA eligibility[1]) during the previous twelve month period.[2]

GENERAL PRINCIPALS

Any eligible employee shall be granted, upon request, up to twelve (12) weeks unpaid leave during a fixed calendar year for the following reasons:

1. The birth and care of a child;
2. The placement of a child for adoption or foster care;
3. The employee's serious health condition that makes the employee unable to perform the essential functions of his or her job position;
4. The care of a child, spouse, or parent who has a serious health condition; and
5. Any qualifying exigencies arising out of the fact that the employee's child, spouse, or parent is on active duty or has been notified of an impending call or order to active duty.

Requests for leave and granting of leave shall conform to applicable federal and state law. A physician's statement may be required when determining the leave period, and for foreseeable leave, the employee shall adhere to District notice requirements and provide the Superintendent with at least thirty (30) days written notice before the beginning of the anticipated leave.

An employee may use accrued sick or annual leave for unpaid family and medical leave. Paid leave shall run concurrently with and be counted toward the employee's total period of FMLA leave.

[1] *Hinson v. Tecumseh Products Co.* 234 F.3d 1268, 6th Cir. (2000).

[2] Family and Medical Leave Act 1993

MATERNITY/PATERNITY LEAVE

FMLA leave for maternity purposes shall run concurrently with leave provided under the Tennessee Maternity Act. In accordance with state law, any eligible employee requesting leave due to adoption, pregnancy, childbirth, and nursing an infant shall be granted up to four (4) months leave.[3]

Any employee on maternity/paternity leave shall be permitted to use accumulated sick and annual leave for a period not to exceed the employee's accumulated leave or twelve (12) weeks, whichever is less. To be eligible to use sick and/or annual leave in connection with the birth, placement, or adoption of a child, the employee must submit a written request accompanied by a statement from the employee's physician verifying the pregnancy or the agency handling the child's placement with the employee.

Spouses who are both eligible Bartlett City Schools employees are limited to a combined total of twelve (12) workweeks of FMLA leave in a single twelve (12) month period if the leave is taken for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition. Under certain circumstances, spouses who share leave for the birth or adoption of a child may be eligible for limited amounts of additional leave for other qualifying FMLA reasons.

PAID FAMILY LEAVE AFTER BIRTH, STILLBIRTH, OR ADOPTION OF NEWLY PLACED MINOR CHILD[4]

For purposes of Policy 5014.1, the following definitions shall apply:

"Birth" means "live birth" as defined in T.C.A. §68-3-102.

"Stillbirth" has the same meaning as defined in T.C.A. §68-3-102.

"Adoption" means that period of time beginning with the filing of an adoption petition and the initial placement of a minor child within the residence of a prospective adoptive parent pursuant to a court-ordered parental power of attorney or guardianship or custodial order until the issuance of a final order of adoption by the court.

"Newly placed minor child" means the adoption of a minor child that results in a change of custody of that child.

"Eligible employee" means a teacher, principal, supervisor, or other individual required by law to hold a valid license of qualification for employment in a school district.

Paid family leave after birth, stillbirth, or adoption of newly placed minor child applies only to eligible employees. Eligible employees must meet the following requirements:

[3] T.C.A. §49-5-702; T.C.A. §4-21-408
[4] T.C.A. §8-50-814

1. Holds a valid license of qualification or an emergency credential issued by the Department of Education;
2. Has been employed full-time with BCS for at least twelve (12) consecutive months in a position required by law to hold a valid license of qualification, or an emergency credential issued by the Department of Education at the time of the birth, stillbirth, or adoption; and
3. Has held a valid license of qualification or an emergency credential issued by the Department of Education for the entire twelve (12) consecutive months of employment with BCS.

This group of individuals will be granted absence from work with pay for a period of time equal to six (6) work weeks after the birth or stillbirth of the employee's child or the employee's adoption of a newly placed minor child, upon the employee giving thirty (30) days' written notice to the BCS Benefits Department. However, if the employee learns of the birth, stillbirth, or adoption less than thirty (30) days in advance of the birth, stillbirth, or adoption, then the employee must give notice as soon as reasonably possible to be eligible to receive paid leave hereunder.

Any employee granted paid parental leave for the birth, stillbirth, or adoption of a newly placed minor child shall not be required to use the employee's sick, annual, or other leave for the leave taken hereunder.[5] However, the leave granted pursuant to this Policy shall count toward the maximum number of days of family and medical leave the employee is entitled to pursuant to State law (T.C.A. 4-21-408) and the FMLA (29 U.S.C. 2601, *et seq.*).

An eligible employee granted leave hereunder may receive no more than six (6) work weeks of paid leave within a twelve (12) month period, even if there is more than one (1) qualifying birth, stillbirth, or adoption occurring during such time.

The six (6) work weeks of paid leave shall be taken consecutively, except in extenuating circumstances, as determined and approved by the Superintendent.

The paid leave granted pursuant to this Policy must be used within twelve (12) months of the birth, stillbirth, or adoption of a newly placed minor child.

For purposes of this provision, while being employed by BCS, during periods of unpaid or paid leaves, eligible employees shall be considered as having been employed full-time.

MILITARY LEAVE

Qualifying Exigencies. Eligible employees are entitled up to twelve (12) workweeks of leave because of any qualifying exigency arising out of the fact that the employee's child, spouse, or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces. Qualifying exigencies may include:

1. Issues arising from a covered service member's short notice deployment (i.e., less days of notice) for a period of seven (7) days from the date of notification;

[5] T.C.A. §8-50-813

2. Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered service member;
3. Making or updating financial and legal arrangements to address a covered service member's absence;
4. Attending counseling provided by someone other than a health care provider for oneself, the covered service member, or the child of the covered service member, the need for which arises from the active duty or call to active duty status of the covered service member;
5. Taking up to fifteen (15) days of leave to spend time with a covered service member who is on short-term temporary, rest and recuperation leave during deployment;
6. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) days following the termination of the covered service member's active duty status, and addressing issues arising from the death of a covered service member; or
7. Any other event that the employee and employer agree is a qualifying exigency.

Military Caregiver Leave[6]. An eligible employee who is a spouse, child, parent, or next of kin of a covered service member or covered veteran with a serious injury or illness shall be granted up to a total of twenty-six (26) workweeks of unpaid leave during a "single 12-month period" to care for the covered service member or covered veteran. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A covered veteran is an individual who was a member of the Armed Forces at any time during the period of five (5) years preceding the date of the medical treatment, recuperation, or therapy that has a serious injury or illness who is currently receiving medical treatment, recuperation, or therapy. The calculation of this 5-year period shall not include the interval of October 28, 2009 through March 8, 2013. The "single 12-month period" for leave to care for a covered service member or covered veteran with a serious injury or illness begins on the first day the employee takes leave for this reason and ends twelve (12) months later, regardless of the twelve (12) month period established by the employer for other types of FMLA leave. An eligible employee is limited to a combined total of twenty-six (26) workweeks of leave to provide care for a covered service member.

For covered service members, a serious injury or illness is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. For covered veterans, a serious injury or illness is defined as:

[6] 29 C.F.R. §825.127

1. A continuation of a serious injury or illness that was incurred or aggravated in the line of duty while on active duty that rendered the veteran unable to perform the duties of the veteran's office, grade, rank, or rating;
2. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50 percent or higher, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave;
3. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
4. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

INTERMITTENT LEAVE

Employees may take FMLA leave intermittently when medically necessary to care for a seriously ill family member, because of the employee's own serious health condition, for the care of a newborn, or for the placement of a child for foster care or adoption. When a licensed employee requests foreseeable leave for planned medical treatment and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period during which the leave would extend, the District may require that such employee elect either to take the leave for periods of a particular duration, not to exceed the duration of the planned medical treatment, or to transfer temporarily to an available alternative position offered by the District for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.

RESTRICTIONS

Notice Requirements.

For foreseeable leave, the employee shall provide the Superintendent with at least thirty (30) days written notice before the beginning of the anticipated leave.

Once it has been established that the leave requested qualifies for FMLA, the Superintendent or his/her designee shall notify the employee within two (2) business days (absent extenuating circumstances) that any leave taken pursuant to state leave statutes (paid vacation leave, personal leave, sick leave or worker's compensation) shall run concurrently with FMLA leave.[7] The notice may be given orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following pay day.[8]

Certification Requirements.

[7] 29 C.F.R. §825.207

[8] OP Tenn. Atty Gen 94-006 (Jan. 13, 1994); *Plant v. Morton International, Inc.* 212 F.3d 929, 6th Cir. (2000).

The Superintendent may require that a request for leave be supported by certification issued by a healthcare provider with the following information:

1. The date on which the serious health condition commenced;
2. The probable duration of the condition;
3. The appropriate medical facts within the knowledge of the health care provider regarding the condition; and
4. A statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee is needed.

If there is any reason to doubt the validity of the certification provided, the Superintendent may require, at the expense of the District, an opinion of a second health care provider.

Period Near the End of an Academic Term (Professional employees).

If leave is taken more than five (5) weeks prior to the end of the term, the Superintendent may require the employee to continue taking leave until the end of the term if the leave is at least three (3) weeks of duration and the return of employment would occur during the three (3) week period before the end of the term.

If the leave is taken five (5) weeks prior to the end of the term, the Superintendent may require the employee to continue taking leave until the end of the term if the leave is greater than two (2) weeks duration and the return to employment would occur during the two (2) week period before the end of the term.

REQUIREMENTS OF THE BOARD

1. The employee shall be restored to the same or equivalent position of employment with no loss of benefits, pay, or other terms of employment.

2. The employee shall be kept under any group health plan for the duration of the leave.

3. The Board may recover the premium paid while employee is on FMLA leave under the following conditions:
   A. The employee fails to return from leave after the period of leave has expired.
   B. The employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the control of the employee.