

**Chattooga County Board of Education
Family and Medical Leave Act**

Policy GBRIG

It is the purpose of this policy to set out in summary form the provisions of the Family and Medical Leave Act ("the Act" or "FMLA") and its implementing regulations. The Board of Education ("Board") does not intend by this policy to create any additional rights to leave not provided by the Act; provided, however, the Board does wish to extend the rights of the Act to certain employees who have worked at least 12 months for the Board. The Board does intend to elect certain options as the Act authorizes. Any portion of this policy inconsistent or contrary to the Act is unintentional and shall not be given effect. As to the interpretation of this policy, the Board's employees should look to the Act itself and its regulations.

A. ELIGIBLE EMPLOYEES

Employees of the Chattooga County Board of Education ("Board ") who have been employed for at least 12 months and who have worked at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave, are eligible to take up to 12 workweeks of unpaid leave during a 12-month period, under the Family and Medical Leave Act of 1993 (FMLA).

B. DEFINITIONS

"Active duty or call to active status" means a call or order to active duty in support of a contingency operation pursuant to various sections of Title 10 of the United States Code as defined in 29 C.F.R. S/S 825.800.

"Contingency Operation" means a military operation designated by the Secretary of Defense as one in which Armed Forces members are or may be involved in military actions, operations, or hostilities against an enemy of the U. S. or an opposing military force, or a military operation that results in the call or order to, or retention on, active duty as defined in FMLA Regulations s/s825.800

"Covered military member", means the employee's spouse, son, daughter, or parent on active duty or all to active duty status.

"Covered Servicemember" mean 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 incurred in the line of duty on active duty.

"Health Care Provider" means a doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse midwives, and clinical social workers who are authorized to practice in the state and who are performing within the scope of their practice as defined under state law or who practice in a country other than the United States, are authorized to practice in accordance with the laws of that country; and who are performing within the scope of his or her practice as defined under that country's law. Health care providers also includes Christian Science practitioners listed in the First Church of Christ Scientist in Boston, Massachusetts and any health care provider from whom the Chattooga County School System or the Chattooga County School System's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

"Instructional employee" means an employee whose principle function is to teach and instruct students in a class, a small group, or an individual setting.

"Intermittent Leave" means leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave periods from an hour or more to several weeks.

"Next of Kin" of a covered servicemember means the nearest blood relative other than the covered servicemember's spouse, son or daughter, in the following order of priority: blood relatives granted legal custody, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative for purposes of FMLA caregiver leave.

"Outpatient Status", with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

"Parent" means a biological, adoptive, step or foster mother or father or one who acted in place of a parent when the employee was a child. The term "parent" does not include parent "in law".

"Parent of covered servicemember" means a biological, adoptive, step or foster parent or any other individual who acted in place of a parent of the covered servicemember. The term does not include parent "in law".

"Reduced Leave Schedule" is a leave schedule that reduces the usual number of hours per workweek or hours per workday of an employee.

"Serious Health Condition" means an illness; injury, impairment, or physical or mental condition that involves inpatient care requiring an overnight stay in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider, all as further defined in the FMLA regulations.

"Serious Injury or Illness" means, an injury or illness incurred by a covered service member in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

"Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom the employee acts as a parent. The son or daughter must be under 18 or, if the son or daughter is age 18 or older, he/she must be incapable of self-care due to mental or physical disability at the time FMLA leave is to begin.

"Son or daughter of a covered servicemember" means a covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember acted in the place of a parent, and who is of any age.

"Spouse" means husband or wife as defined or recognized under Georgia law.

C. AMOUNT AND TYPE OF LEAVE TAKEN

An employee may request FMLA leave for one or more of the following reasons:

- 1) Birth of a son or daughter and to care for the newborn child; 2) The adoption or foster placement with the employee of a son or daughter and to care for the newly placed child,
- 3) To care for the employee's spouse, son, daughter, or parent, if that person has a serious health condition
4. Serious health condition of the employee that prevents the employee from performing his/her job functions.
- 5 Any qualifying exigency arising from the fact that the employee's family member (covered military member) is on active duty or has been notified of an impending deployment in support of a contingency operation. Qualifying exigencies are defined as short-notice deployment (seven or less calendar days); military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation (up to five days per instance); post-deployment activities; additional activities where the employer and employee agree that the leave is an exigency and agree to both timing and duration of the leave; and
- 6 Military caregiver leave to care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

In the event of the birth, adoption or foster placement of a son or daughter, all leave must be completed within twelve months after the birth, adoption or foster placement.

Entitlement for leave associated with illness of a child occurs only where the child is under 18 years of age or incapable of self-care due to mental or physical disability.

Except as provided below, an employee may take up to a total of 12 workweeks (60 days) FMLA leave during any twelve-month period. The "rolling year" shall be used to determine the twelve-month period during which the leave entitlement may occur. That is, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the number of weeks that has not been used during the immediately preceding 12 months. See 29 C.F.R. s/s 825.200(b)(4).

All full-time bus drivers who have worked on full-time status during the 12 months preceding the need for leave shall be eligible for FMLA leave benefits.

All full-time food service assistants who have worked on full-time status during the 12 months preceding the need for leave shall be eligible for FMLA leave benefits.

If both spouses work for the Board of Education and both are eligible for FMLA leave, they are authorized to take only a combined total of 12-workweeks leave during any one 12 month period to care for a, newborn or adopted child, a child placed with the employee for foster care, or a parent with a serious health condition. Both spouses are authorized to take leave for 12-workweek leave to a spouse or child with a serious health condition.

An eligible employee is eligible to take up to 26 weeks of military caregiver leave during a "single 12-month period". The "single 12-month period" begins on the date the employee first takes military caregiver leave and ends 12 months after that date, regardless of the method used to determine the leave entitlement period for other FMLA reasons.

If both spouses work for the Board of Education and both are eligible for FMLA leave, they are authorized to take only a combined total of 26 weeks during the "single 12-month period" described above for military caregiver leave or a combination of military caregiver leave and leave taken for other FMLA reasons.

The Chattooga County Board of Education will require that any accrued sick, personal or vacation paid leave be substituted for all or part of the otherwise unpaid FMLA leave under the terms and conditions of the District's normal leave policies. An employee is not eligible for unpaid leave under this FMLA policy until any paid leave provided to the employee under other Board policies (as referenced in the above statement) has been taken, therefore the leaves run concurrently. Because leave pursuant to an employee's disability benefit plan or workers' compensation absence is not unpaid, the provisions for substitution of accrued paid leave is not applicable in such cases.

D. INTERMITTENT OR REDUCED LEAVE

The FMLA permits employees to take leave on an intermittent or reduced schedule where it is medically necessary due to the serious health condition of a covered family member, the employee, or the serious injury or illness of a covered servicemember, or when necessary because of a qualifying exigency. Only the amount of leave actually taken while on intermittent or reduced schedule will be charged as FMLA leave.

The Board of Education will require a medical certification, in the form described in "Required Certification" below, to document the medical necessity of such intermittent leave.

The size of an increment of leave when an employee takes intermittent leave or reduced schedule leave is based on the authorized increment of time reported for payroll purposes. Hourly-paid employees are limited to one-hour increments of leave. Full-time auxiliary personnel are limited to one-half day increments of leave. Professional, administrative and other "exempt" personnel are limited to full-day increments of leave. Personnel paid on a job unit rate are limited to the job unit time periods.

NOTIFICATION OF ANTICIPATED LEAVE

The employee is expected to comply with the customary written notice and procedural requirements for requesting leave with or without pay. The written request should be provided with sufficient advance notice to the principal or supervisor and the Personnel Coordinator.

If an employee is absent due to a serious health condition, then the employee must obtain a medical certification from a health care provider no later than the fourth calendar day of illness and must submit the medical certification to the school system within 15 calendar days upon the request of the school system. To be acceptable, the medical certification must confirm that the employee is unable to work.

An employee who fails to provide an appropriate and properly completed medical certification within 15 calendar days after being requested to furnish such certification may be denied the taking of leave until the required certification is provided.

Except where circumstances are such that reasonable advance planning is not possible, employees must provide the Personnel Coordinator with at least 30 days notice of the date when leave is to begin. With respect to foreseeable family and employee illness, the employee shall make reasonable effort to schedule treatment - including intermittent and reduced schedule - so as not to disrupt unduly the operations of the school district, subject to the approval of the employee's or family member's health care provider.

If such advance notice is not possible, the employee must give notice to the Personnel Coordinator as soon as practical, ordinarily within one or two working days of leaving, of the need for leave.

An employee requesting leave must explain the reasons for the needed leave so as to allow the Personnel Coordinator to determine that the leave qualifies under the FMLA act. An employee giving notice the need for the leave does not need to expressly assess rights under the act or even mention the FMLA to meet the obligation to provide notice, though the individual would need to state a qualifying reason for the needed leave. The employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the Personnel Coordinator is aware of the employee's entitlement. In all circumstances, it is the Personnel Coordinator's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, based on information provided by the employee.

BENEFITS AND RETURN TO WORK

With the exception of paid vacation, personal, sick, or any other paid leave required to be substituted for unpaid leave under Section C above, benefits accrued by the employee before leave is taken will not be altered by the employee's absence under this policy.

Upon return from leave, the employee is entitled to be reinstated to an equivalent position held when he/she left on FMLA leave, with equivalent pay, benefits and other terms and conditions of employment. Upon proper notice, however, the Board may deny reinstatement under this policy to an employee whose salary is in the highest 10% of the employees employed by the school district if such denial is necessary to prevent substantial and grievous economic injury to the Board's operation, as determined by the Board.

The employee is entitled to continuation of health benefits or other insurance coverages during the leave period. The Board of Education will pay the employer's portion of such benefits. The employee will pay the same portion of such benefits as the employee paid before beginning leave.

While on FMLA leave, insurance premiums will be made by payroll deduction when possible. If FMLA leave is unpaid, payments for insurance premiums will be paid based on the guidelines of the State Health Benefits Plan Leave Without Pay Procedures, and may require that premium payments be mailed directly to each agency.

The Board of Education will require certification from the health care provider that a serious health condition of the employee or family member, or the covered servicemember's serious injury or illness, prevented the employee from returning to work.

REQUIRED CERTIFICATION AND REPORTING

The Board of Education requires that a request for leave due to a serious health condition of an employee or an employee's family member or a serious injury or illness of a covered servicemember be supported by a certification issued by the appropriate health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee on a form provided by the Board of Education. Certification does not apply to adoption or foster placement of a child.

This certification must include: (1) the name, address, telephone and fax numbers of the healthcare provider and type of practice/specialization; (2) the approximate date on which the serious health condition commenced, and its probable duration of the condition, (3) if the purpose of the leave is to care for a son, daughter, spouse, or parent, a statement that the employee is needed to care for the family member and the estimated amount of time needed for such care, and (4) if the leave is due to the employee's own serious health condition, a statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested; (5) if the leave is due to the employee's own serious health condition, a statement that the employee is unable to perform his/her essential job functions, the nature of other work restrictions, and the likely duration of such inability; (6) if intermittent or reduced schedule leave is requested, information sufficient to establish the medical necessity for the same and an estimate of the dates and duration of treatments and any periods of recovery. The Board of Education may require that the eligible employee obtain subsequent re-certification on a reasonable basis, as requested by the Board in accordance with the FMLA regulations.

The Personnel Coordinator shall advise an employee whenever a medical certification that has been submitted is incomplete. The employee will be provided a reasonable opportunity to correct any such deficiency.

In the event an employee provides false information about the need for leave, submits a fraudulent medical certification, or a false fitness-for-duty statement, appropriate administrative action will be taken to terminate the employment of the individual. The employee will be charged with "making false statements" and "falsification of government records". An employee who fraudulently obtains FMLA leave from the Board of Education is not protected by FMLA's job restoration or maintenance of health benefits provisions.

The Board of Education reserves the right, at its own expense, to designate a second health care provider (other than a School district employee) to provide a second opinion. The Board of Education may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee. A third such opinion, should it be necessary, shall be final and shall be binding on the employer and the employee.

The Board of Education may require an employee on FMLA leave to report periodically to the Personnel Coordinator or his/her principal or supervisor on the employee's status and intent to return to work.

Fifteen days before the tentative date to return to duty, an employee on FMLA leave must provide written notice to the Personnel Coordinator and the principal or department director regarding (1) the intent to return to duty on the tentative date as reported on the application for leave, (2) the need to modify the tentative date to return to duty with an explanation of the circumstances relating to the needed modification, (3) the need to extend the leave beyond the FMLA 60-day maximum, or (4) a resignation from employment.

Upon the employee's return to work after leave for the employee's own health condition, the Board of Education requires the employee to provide medical certification by his/her health care provider that the employee is "fit-for-duty" and able to resume to work.

The Board will require that a first request for leave because of a qualifying exigency arising from active duty or a call to active duty be supported by a copy of the covered servicemember's active duty orders or other documentation issued by the military. A certification form requesting the required information to support a request for exigency leave will be provided by the Board upon request.

H. SPECIAL PROVISIONS

If an "instructional employee" begins leave under the policy within five weeks before the end of a semester, and the duration of the leave is greater than five working days, the Board of Education may require the employee to continue to take leave until the end of the term if

- (a) the leave will last at least three weeks; and
- (b) the employee would return to work during the three-week period before the end of the term.

If an "instructional employee" begins leave for the purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the Board may require the employee to continue taking leave until the end of the semester if

- (a) the leave will last more than two weeks; and
- (b) the employee would return to work during the two-week period before the end of the term.

When an "instructional employee" seeks intermittent leave or leave on a reduced schedule in connection with a family or personal serious illness or to care for a covered servicemember that would constitute at least 20% of the total number of working days in the period during which the leave would extend, the Board of Education may require the employee to elect to take leave in a block (not intermittently) for the entire period or to transfer to an available alternative position within the school system that is equivalent in pay, for which the employee is qualified, and which better accommodates the intermittent situation.

The Board of Education may deny coverage under this policy to an employee whose salary is in the highest 10% of the employees employed by the school district if such denial is necessary to prevent substantial and grievous economic injury to the District's operation.

I. STATEMENT OF COMPLIANCE

The Superintendent shall make, keep and preserve records showing compliance with the Family and Medical Leave Act of 1993 and in accordance with the Fair Labor Standards Act of 1938 and federal regulations.

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