

POLICY

SOMERSET COUNTY
BOARD OF EDUCATION

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Subject: Family and Medical Leave Act (FMLA)	Date Approved: August 17, 2004 October 17, 2006 August 16, 2011 Date Revised: September 19, 2006 June 30, 2011 Date Effective: August 17, 2004 October 17, 2006 August 16, 2011

1. **PURPOSE**

To establish procedures for implementation of the Family and Medical Leave Act.

2. **DEFINITIONS**

A. **Eligible Employee**

In general, the term “eligible employee” means: (1) A regular employee who has been employed for at least 12 months by the Somerset County Public School system and, (2) has been employed in at least a 0.5/20 hours weekly regular position during the 12-month period immediately preceding the commencement of the leave. The employee must have worked a minimum of 1250 hours during the 12 months.

B. **Health Care Provider**

The term “health care provider” means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services.

C. **Parent**

The term “parent” means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

D. **Reduced Leave Schedule**

The term “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

E. Serious Health Condition

The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

- (1) Any period of incapacity or treatment in connection with or consequent to inpatient care (e.g., and overnight stay) in a hospital, hospice, or residential medical care facility;
- (2) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or
- (3) Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.

F. Continuing Treatment by a Health Care Provider

The term “continuing treatment by a health provider” means one or more of the following:

- (1) The employee or family member in question is treated two or more times for injury or illness by a health care provider. Normally this would require visits to the health care provider or to a nurse or physician’s assistant under direct supervision of the health care provider.
- (2) The employee or family member is treated for the injury or illness two or more times by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider, or is treated for the injury or illness by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider, for example, a course of medication or therapy to resolve the health condition.
- (3) The employee or family member is under the continuing supervision of, but not necessarily being actively treated by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured. Examples include persons in the terminal states of a disease who may not be receiving active medical treatment.

G. Son or Daughter

The term “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.

H. Spouse

The term “spouse” means a husband or wife, in accordance with Maryland law.

3. PROCEDURE**A. All Permanent Employees**

- (1) All permanent employees whose assignment provides for at least .5/20 hours of the work week and who have been employed by the Somerset County Board of Education at least 12 months and worked a minimum of 1250 hours may request family and/or medical leave.
- (2) The term permanent as used in this policy is not intended to create any job status or employment relationship established by other Board policy(ies).

A. Benefits

- (1) Eligible employees may request up to 12 workweeks of unpaid leave time, which must be used concurrently with other paid and/or unpaid leave provisions outlined in other personnel policies.
- (2) The Board of Education will continue to pay its rate of contribution toward health insurance coverage that is in effect at the time the leave commences for eligible employees for a maximum of 12 weeks. The employee, without remaining leave, will make arrangements to pay the employee portion on a monthly basis. Somerset County Public Schools may drop the coverage for an employee whose premium is more than 30 days late. Employees will be notified 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. The employee who has used all FMLA benefits and is on unpaid leave will be responsible for the full cost of benefits beginning on the first day of the unpaid leave. Employees without remaining leave may be considered as employees until the end of the fiscal year. Documentation must be provided by the employee to justify the extended absence during the fiscal year.
- (3) Eligible employees may request FMLA benefits once during a 12-month period, which is defined as that period between September 1 and August 31.

- (4) Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

C. Conditions for which Family and/or Medical Leave May Be Granted

- (1) Birth and subsequent care of a child of an eligible employee
- (2) Care of adopted or foster child
- (3) Care of eligible employee's spouse, child or parent who has a serious health problem
- (4) Serious health conditions in excess of 3 days which makes the eligible employee unable to perform the essential functions of the assigned position
- (5) A qualifying exigency "arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty or has been notified of an impending call to active duty status in support of a contingency operation. Regulations require the Secretary of Labor to issue regulations defining any qualifying exigency".
- (6) An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12 month period to care for the service member. This provision became effective immediately upon enactment January 28, 2009. This military caregiver leave is available during "a single 12 month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Note: Entitlement of family leave expires twelve (12) months after the birth or adoption of a child. Additionally, such leave cannot be taken intermittently.

D. Procedures for Applying for Family and/or Medical Leave

- (1) Submit application for Family or Medical Leave thirty (30) days prior to the anticipated beginning of leave except in emergency situations. In the event of unforeseen emergency situations, request must be made as soon as possible.
- (2) Submit Medical Certification Statement for Employee's Own Serious Illness or Medical Certification Statement of Illness of Employee's Family Member five days prior to the requested absence except in emergency situations as described above.

- (3) Submit Notice of Intention to Return From Leave form five days prior to the request for extended absence if illness documented in D-2 will extend the leave requested.

Note: All forms described must be submitted to the Director of Human Resources.

E. Other Provisions of FMLA

- (1) If a husband and wife entitled to leave are both employed by Somerset County Public Schools, the aggregate number of work weeks of leave to which both may be entitled is limited to 12 work weeks during the 12-month period except in cases of serious medical illness of either employee. In such case, the employee is eligible to take Family and Medical Leave to a total of 12 weeks.
- (2) Employees who choose not to return to work at the conclusion of the approved 12-week period will be required to repay the Board's portion of the health insurance premium for the unpaid portion of the leave. Exceptions would include the continuations, recurrence, or onset of a serious health condition that entitles the employee to leave or other circumstances beyond the control of the employee.
- (3) Medical leave may be taken intermittently.
 - a) Leave for maternity, adoption, or foster care placement shall not be taken by an employee intermittently or on a reduced leave schedule.
 - b) Section 825.117 of the Family and Medical Leave law provides that "for intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Employees needing intermittent Family and Medical Leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employer's operations. In addition, an employer may assign an employee to an alternative position with equivalent pay and benefits that better accommodate the employee's intermittent or reduced leave schedule."
 - c) Section 825.204 of the law provides that "if an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, including during a period of recovery from a serious health condition, the employer may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of

leave than does the employee's regular position. An alternative position for these purposes does not have to have equivalent duties. The employer may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary."

- (4) Failure to return to work at the end of the leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by the Somerset County Board of Education.
- (5) Every attempt will be made to restore an employee returning from leave to his or her original position. If the employee's original position is unavailable, the employee will be placed in an equivalent position with equivalent pay and benefits.

F. Scheduling Requirement

- (1) Section 825.302(e) of the Family and Medical Leave law provides that "when planning medical treatment, the employee should consult with the employer and make a reasonable effort to schedule the leave so as not to disrupt unduly the employer's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employers prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employer and the employee. In any event, when notice is given of the need for leave, an employer may, for justifiable cause require an employee to attempt to reschedule treatment, subject to the ability of the health care provider to reschedule the treatment and the approval of the health care provider as to any modification of the treatment schedule.

G. Absences covered under the Family and Medical Leave Act and bereavement leave are not to be factored into employee's summative evaluation. Reference section C of this policy. FMLA or bereavement leave absences may not be used or referenced on any evaluation. The administrative and supervisory staff will contact the Human Resources Office to indicate if an employee has been absent more than three consecutive days. The Human Resources Office will provide the forms to the employee if the employee is absent or expected to be absent more than 3 days or as a continuation of a previously covered event. The employee will return completed FMLA forms to the Human Resources Office within one to two weeks.

SOMERSET COUNTY PUBLIC SCHOOLS

APPLICATION FOR FAMILY OR MEDICAL LEAVE

Name:

School:

Current Address:

Start Date of Anticipated Leave:

Expected Date of Return to Work:

Reason for Leave (Explain):

NOTE: A leave request based on an employee's serious health condition or the serious health condition of an employee's spouse, child or parent must be accompanied by a verifying medical certification from a physician.

I hereby authorize the Somerset County Board of Education to contact my physician to verify the reason for my requested leave or for any other information concerning my requested family and medical leave.

I understand that a failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by the Somerset County Board of Education.

Signature:

Date:

Approved By:

Principal/Supervisor/Human Resources Director

SOMERSET COUNTY PUBLIC SCHOOLS

MEDICAL CERTIFICATION STATEMENT (Employee's Own Serious Illness)

Name of Employee: _____

Date Condition Began: _____

Date Condition Ended (or is expected to end): _____

Explanation of extent to which employee is unable to perform the functions of his or her job:

Health Care Provider Signature:

Date: _____

Office Phone: _____

Medical Release:

I authorize the release of any medical information necessary to process the above request.

Patient's Signature: _____

Date: _____

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MEDICAL CERTIFICATION STATEMENT (Illness of Employee's Family Member)

Name of Employee: _____

Name of Ill Family Member: _____

Date Condition Began: _____

Date Condition Ended (or is expected to end):

Explanation of extent to which employee is needed to care for the ill spouse, child or parent:

Health Care Provider Signature:

Date: _____

Office Phone: _____

Medical Release:

I authorize the release of any medical information necessary to process the above request.

Patient's Signature: _____

Date: _____

SOMERSET COUNTY PUBLIC SCHOOLS

NOTICE OF INTENTION TO RETURN FROM LEAVE

Name of Employee: _____

Supervisor: _____

Date Leave Commenced: _____

Date of Planned Return: _____

I understand that my restoration to employment is subject to the following conditions:

- A. As a condition of restoration, each employee whose application for leave was based on his or her serious health condition must provide a written certification from his or her health care provider that the employee is able to resume working.
- B. Every attempt will be made to restore an employee returning from leave to his or original position. If the employee's original position is unavailable, the employee will be placed in an equivalent position with equivalent pay and benefits.

Employee's Signature

Date

I have examined _____ and can certify that she/he is fully able to resume working.

Health Care Provider's Signature