

BOARD OF EDUCATION
POLICY 7100
FAMILY AND MEDICAL LEAVE

Effective: April 14, 1994

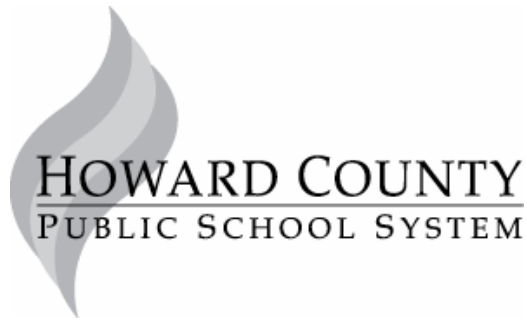
Policy Statement

It is the intent of the Board of Education to provide leave in compliance with the Family and Medical Leave Act of 1993.

The Board has instructed the Superintendent to develop regulations and procedures for the implementation of this policy.

Legal Reference: Public Law 103-3, 107 Stat. 6 (29 U.S.C. 2601 et seq.)

Original Approval: April 14, 1994



POLICY 7100-R
REGULATIONS
FAMILY AND MEDICAL LEAVE

Effective: April 14, 1994

I. Definitions

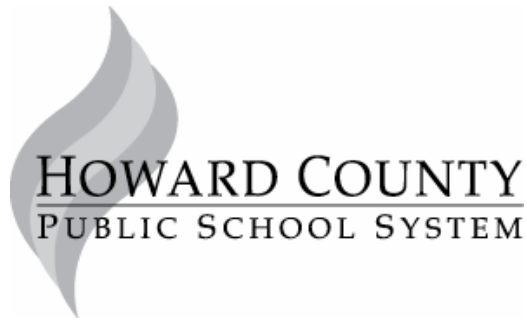
- A. Academic Term. "Academic term" means the school semester.
- B. Certification. "Certification" means official documentation required for the approval of FMLA leave such as, but not limited to, medical, adoption, and/or foster care.
- C. Eligible Employee. An "eligible HCPSS employee" is an employee who is .5 or more and has been employed for at least 12 months during the 12-month period immediately preceding the commencement of the leave.
- D. Employment Benefits. The term "employment benefits" means all benefits provided and/or made available to employees of the HCPSS in addition to the wages for hours worked. Employee benefits may include, but are not limited to, group life insurance, health insurance, sick leave, personal leave, and annual leave.
- E. Equivalent Position. An "equivalent position" is a position which has the same pay, benefits, and working conditions. An equivalent position involves the same or substantially similar duties and responsibilities, and entails substantially equivalent skill, effort, responsibility, and authority.
- F. Family and Medical Leave. The term "family and medical leave" is leave with or without pay granted to an eligible employee in compliance with federal regulations and guidelines. FMLA leave may be granted for the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position or job because of a serious health condition; if needed to care for a spouse, child, or parent who has a serious health condition; the birth of the employee's child (infant care subsequent to child birth); or for the adoption of a child or the placement of a foster child with the employee.
- G. FMLA. "FMLA" means the Family and Medical Leave Act of 1993.
- H. Instructional Employee - An "instructional employee" is a certificated employee, such as a classroom teacher, who is primarily responsible for the instruction of students.

- I. Intermittent Leave. "Intermittent leave" means leave taken in separate periods of time, based on medical need, due to a single illness or injury, rather than for one continuous period of time.
- J. Reduced Work Schedule. A "reduced work schedule" is a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday for FMLA-qualifying reasons only.
- K. Serious Health Condition. The term "serious health condition" means an illness, injury, impairment, or physical or mental condition involving incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or any period of incapacity requiring absences of more than three days and involving continuing treatment by a health care provider for treatment for a chronic or long-term health condition that is incurable or so serious that, if left untreated, would likely result in an absence from work of more than three days.
- L. Twelve-month Period. The "rolling" twelve-month period for the HCPSS employee shall be measured backward from the date any FMLA leave is used.
- M. Week. A "week" for purposes of FMLA leave is equivalent to the employee's normal assigned workweek schedule.

II. Regulations

- A. The Family and Medical Leave Act provides up to 12 weeks of leave per year for an eligible employee's serious health condition, the birth or adoption of a child or the placement of a foster child with the employee or, if needed, to care for a sick spouse, child, or parent.
- B. Employees, in order to meet eligibility requirements, must have worked at least 12 months for the HCPSS at .5 or above and have worked for the 12-month period immediately preceding the beginning of FMLA leave.

Original Approval: April 14, 1994



POLICY 7100-PR
IMPLEMENTATION PROCEDURES
FAMILY AND MEDICAL LEAVE

Effective: April 14, 1994

I. Entitlement

Family and Medical Leave will be granted for one or more of the following reasons:

- A. The employee's own serious health condition that makes the employee unable to perform the functions of the employee's job because of a serious health condition;
- B. To care for the employee's spouse, child, or parent who has a serious health condition;
- C. For the birth of the employee's child and to care for the child (infant care subsequent to child birth); or
- D. For the adoption of a child and/or the placement of a foster child with the employee.

II. Eligibility

Employees must be employed by the Howard County Public School System at .5 or above, for at least 12 months prior to February 5, 1994, or the 12-month period preceding the start of the leave.

III. Notification Requirements

- A. All requests for FMLA leave must be made on the appropriate forms. Requests for FMLA leave will be processed through the Department of Human Resources. Employees should also notify the building administrator/supervisor that he/she is requesting FMLA leave through the Department of Human Resources.
- B. An employee must provide the HCPSS at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. When it is not practicable under the circumstances to provide such notice, e.g., premature birth, such notice must be given as soon as practicable, ordinarily within one or two business days of when the employee learns of the need for the leave.
- C. FMLA limits the leave that may be taken by spouses who work for the same employer to a combined total of 12 workweeks during any 12-month period of leave which is taken for the birth of a child; to care for the child after birth; for placement for adoption or foster care of a child.

- D. The Howard County Public School System reserves the right to make reasonable inquiries to determine if the nature of the absence qualifies for FMLA.
- E. Employees are expected to return to work immediately following the expiration of FMLA leave. However, if an employee is unable to return to work at the expiration of the FMLA leave, the employee may request approval for additional absence under another designated type of leave granted to employees, if available. Such requests must follow established procedures and/or criteria for the requested leave, i.e., disability leave, childbearing leave, etc.
- F. Employees must provide an anticipated date of return to their normal work schedules.
- G. An application for leave based on the serious health condition of the employee or the employee's spouse, child, or parent must also be accompanied by a "Medical Certification Statement" provided by the HCPSS and completed by the health care provider. Failure to fulfill this requirement may result in the employee being absent without leave and subject to termination.
- H. Employees taking FMLA leave because of a serious health condition or a serious health condition of a family member can be requested to provide, at reasonable intervals, periodic medical statements pertaining to the ill individual's health status.

IV. Intermittent Leave and/or Reduced Work Schedule

- A. Intermittent leave will be available if medically necessary due to a serious health condition of an employee or the employee's immediate family member. The birth of a child, adoption, and/or foster care **are not** covered under intermittent leave.
- B. The employee is subject to the notification requirements of Section III.
- C. The HCPSS will make every effort to accommodate requests for intermittent leave and reduced work schedule due to medical necessity. However, the employee may be assigned to an alternative position with equivalent pay and benefits if the alternative better accommodates the employee's intermittent leave schedule.
- D. Special provisions exist for instructional employees. When an instructional employee requests intermittent leave or a reduced work schedule for planned medical treatment and the employee would be on leave for more than 20 percent of the total number of working days in the period during which the leave would be used, the employer may require the employee to elect either to (1) take leave for a "particular duration" of time which is not greater than the duration of the planned treatment, or (2) temporarily be transferred to an available alternative position for

which the employee is qualified, with equivalent benefits, pay, responsibilities, and other conditions in existence prior to the FMLA leave, and which better accommodates the requested leave.

V. Leaves Taken Near the End of an Academic Term

- A. Absences More Than 5 Weeks Before The End Of An Academic Term - The employee may be required to continue on leave until the end of the term, if the leave is of at least 3 weeks in duration and the employee intends to return to work during the 3-week period before the end of the term.
- B. Absences Less Than 5 Weeks Before The End Of An Academic Term - If the employee begins leave for purposes other than the employee's own serious health condition, he/she may be required to continue taking leave until the end of the term if the leave is more than 2 weeks and the employee intends to return to work during the 2-week period before the end of the term.
- C. Absences Less Than 3 Weeks Before The End Of An Academic Term - If the employee begins leave for purposes other than the employee's own serious health condition, he/she will be required to continue taking leave until the end of the term if the leave lasts more than 5 working days.

VI. Designation of FMLA

The HCPSS reserves the right to determine, based on information provided, whether the requested leave, paid or unpaid, qualifies as FMLA leave. Such leave will be taken in accordance with established procedures for use of leave.

- A. If employees do not have enough applicable paid leave during their absences, additional time will be provided without pay to meet the FMLA request.
- B. The HCPSS can designate FMLA leave for employee absences that meet the criteria for FMLA leave.
- C. The HCPSS may request an independent medical evaluation to obtain a second opinion before designating FMLA leave. If the prior medical evaluations differ, a third binding opinion may be requested by the HCPSS.
- D. The following paid leaves are available to be counted as part of approved FMLA leave under the circumstances described below.
 - 1. Sick leave can be used for a serious health condition of an employee, spouse, son, daughter, or parent.

2. Annual leave can be used for a serious health condition of an employee, a spouse, son, daughter, or parent. Annual leave can also be used for the adoption of a child or the placement of a foster child with the employee.
3. Personal Leave can be used for a serious health condition of an employee, a spouse, son, daughter, or parent. Personal leave can also be used for the adoption of a child or the placement of a foster child with the employee.

VII. Certification Required for FMLA

- A. The Howard County Public School System requires that medical certification be provided for any request for absence due to the birth of a child and/or a serious health condition.
- B. Requests for the adoption and/or foster care of a child must be accompanied by appropriate certification.
- C. A second and/or third independent opinion may be required, at the HCPSS's expense, for additional medical verification.

VIII. Return to Work

- A. In order to return to work, employees on FMLA leave for their own serious health condition are required to submit a medical certification statement that the employees are able to perform the functions of the job.
- B. Employees will be returned to the same position, in most cases, as held prior to FMLA leave; however, in some instances, the employees may be returned to an available equivalent position for which the employee is qualified with equivalent benefits, pay, responsibilities, and other conditions in existence prior to the FMLA leave.
- C. The taking of leave under FMLA shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

IX. Failure to Return to Work

If an employee fails to return to work after the expiration of FMLA leave, the employee will be required to reimburse The Howard County Public School System for any medical and health premiums paid for the employee during FMLA leave, unless waived by the HCPSS for good cause.

X. Maintenance of Benefits

- A. During a period of FMLA leave, an employee's health coverage will continue under the same conditions that applied before the leave commenced.
- B. If the employee is receiving pay while on FMLA leave, health insurance premium contributions will continue through payroll deduction. If the FMLA leave is unpaid, the employee is responsible for his/her share of the health insurance premium payments. Payments must be submitted directly to the Business Office.
- C. An employee who is on approved **paid** leave, including intermittent leave, will continue to accrue leave at his/her regular rate.
- D. An employee on unpaid FMLA leave will not accrue leave during this time.

Administrative Approval: April 14, 1994