**Type of Leave:** Family Medical Leave Act (FMLA)

**Summary:** Baltimore County Public Schools (BCPS) provides eligible employees up to 12 or 26 weeks (for military) of unpaid, job-protected leave in a 12-month period (see General Information for definition) for specified family and medical reasons, for any “qualifying exigency,” in accordance with the Family Medical Leave Act of 1993. See appropriate section under General Information for additional details and definition.

Under certain circumstances, employees may take FMLA leave intermittently or on a reduced schedule. Leave for the birth, adoption or foster care placement of a child is not eligible for intermittent leave.

**Eligibility:** Regular employees who:
- Have been employed with BCPS for 12 months (including breaks in service not to exceed 7 years, unless for military service) prior to start of leave, AND
- Meet the service hour requirement within the previous 12-month period.
  - Employees who do not meet the eligibility requirements may be offered a short-term unpaid leave, or may be referred to the BCPS Equal Employment Opportunity (EEO) Office to determine if the request may qualify as a leave of absence as a reasonable accommodation under the Americans with Disability Act (ADA).

**Approved By:** Department of Human Resources

The application, and all required documentation noted below, should be sent to:

The Department of Human Resources  
Office of Leaves  
6901 Charles Street, B Building, Towson, MD 21204  
Fax no. 410-887-8950  
Email: Leaves@bcps.org

For additional information, contact: Leaves Representative, 443-809-8947

**General Information**
- The Application for Leaves of Absence and Conversions must be submitted, and approval of the leave request obtained, before the leave begins.
- If eligible, approved FMLA leave runs concurrently with Maternity, Paternity, Adoption and Conversion Leaves.
- Employees may choose to have FMLA leave time run concurrently with other specific paid leaves of absences. These employees must notify the Office of Benefits, Leaves and Retirement of this choice at the time they apply for FMLA.
Under certain circumstances, employees may take FMLA leave intermittently or on a reduced schedule. Leave for the birth, adoption or foster care placement is not eligible for intermittent leave.

FMLA leave for the birth and care, or placement of a child for adoption or foster care, must conclude within 12 months of the birth or placement.

According to FMLA regulations, the Office of Benefits, Leaves and Retirement may request medical recertification once the specified period of leave time has passed and the employee has not returned to work, or every 6 months for an unspecified duration of leave.

Additional medical certification information also may be requested if an employee is not using intermittent leave in a manner that is inconsistent with the medical certification.

When FMLA leave is needed for a planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer’s operation and to provide notice 30 days in advance. If the leave is not foreseeable, the employee must provide notice as soon as practicable.

Gainful, permanent employment with another employer while on an approved leave of absence may serve as justification for termination of the leave.

No employee may engage in remunerative employment during his/her regularly scheduled BCPS work hours of any type, receive compensation for, or enter into any employment agreement, express or implied, while the employee is receiving personal or family illness leave. This prohibition includes afternoon or evening activities of the school system or any other school system. These prohibitions apply to employees using intermittent leave on the specific days when intermittent leave is used. Non-compliance may serve as justification for termination of the leave and/or disciplinary action.

12 weeks of FMLA leave
- Up to 12 weeks of FMLA unpaid leave during a rolling 12-month period is available. (Rolling 12-month period is defined as the 12-month period measured backward from the date of the new request):
  - For incapacity due to pregnancy, prenatal medical care or child birth;
  - To care for the employee’s child after birth, or placement for adoption or foster care within one year of placement;
  - To care for the employee’s spouse, son, daughter or parent, who has a serious health condition; (In general, an employee may not take FMLA leave to care for a son or daughter who is 18 years of age or older. However, an employee may take FMLA leave to care for a biological, adopted, or foster child, a stepchild, a legal ward, or a child to whom the employee stands en loco parentis, who is 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence, or
  - For a serious health condition that makes the employee unable to perform the employee’s job.
- Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies.

- A qualifying exigency is defined by the Department of Labor as:
  - Attending certain military events
  - Arranging for alternative childcare
Addressing certain financial and legal arrangements
Attending counseling sessions
Attending post-deployment reintegration briefings
Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

- FMLA leave due to a qualifying exigency is available to family members of the National Guard, Reserves, regular armed forces and certain retired military only.

26 weeks of FMLA Leave (Military Caregiver Leave)
- Up to 26 weeks of FMLA unpaid military caregiver leave during a single 12-month period is available to employees to care for a covered service member.
- A covered service member is: (1) 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 outpatients status, or is otherwise on the temporarily disability retired list, for a serious injury or illness*, or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*
*The FMLA definitions of “serious injury or illness” for current servicemembers and veterans are distinct from the FMLA definition of “serious health condition”.

The Office of Benefits, Leaves and Retirement will send notification of the approval or denial of the leave request, and any conditions that must be met, to the employee, and the principal or office head immediately following the review of the leave request and documentation.
Employees must notify the Office of Benefits, Leaves and Retirement via phone call, email or letter immediately if the plans for the leave do not materialize or change.

**Intermittent Leave**
- Employees may be eligible to take FMLA leave intermittently or on a reduced schedule for the care of covered family members (as defined by the FMLA) with a documented serious health condition, for the employee’s own documented serious health condition, qualifying exigency and military caregiver leave.
- Leave for the birth, adoption, foster care placement is not eligible for intermittent leave.
- Employees who use SmartFindExpress (SFE), and have intermittent leave approved by HR, must code intermittent absences related to the leave in SFE. Employees who do not use SFE are required to notify their immediate supervisor when taking leave under approved intermittent FMLA.

**Required Documentation**
- Completed Application for Leaves of Absence and Conversions
- For the birth and care of a newborn child or for the employee’s documented serious health condition
  - Certification of Health Care Provider for Employee’s Serious Health Condition
- For the care of a covered family member (as defined by the FMLA) with a documented serious health condition
  - Certification of Health Care Provider for Family Member’s Serious Health Condition
- For the placement of a son or daughter for adoption or foster care
• Documentation from the adoption or foster care agency to include foreign travel time, if applicable
  ➢ For qualifying exigencies
    • Certification of Qualifying Exigency for Military Family Leave
  ➢ For the care of a covered service member injured in the line of duty on active duty
    • Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave
  ➢ Required documentation must be received 30 days prior to the commencement of the requested leave (if leave is foreseeable). If an emergency situation arises, or circumstances prevent this, employees must contact the Office of Benefits, Leaves and Retirement as soon as possible.
  ➢ Leave processing may be delayed if documentation is not received within the required timeframe.

**Effect on Position**

➢ In the majority of cases, the employee’s current position is not released and there is no impact. Any exceptions will be in accordance with FMLA regulations.

➢ Certificated teachers will be placed no later than the beginning of the next school year if the leave expires during the school year, per the bargaining unit agreement.

➢ If an employee rejects an offer of a position within his/her classification upon reinstatement, it relieves BCPS of the commitment to provide employment.

**Effect on Salary Increment**

➢ There is no effect on salary increment.

**Effect on Payroll, Healthcare Benefits and Retirement Plans**

➢ Payroll
  • FMLA is unpaid, unless the employee elects to run FMLA concurrently with their accrued paid time; except in the cases of Maternity, Paternity, Adoption and Conversion Leaves, during which their accrued personal illness absence time is used.
  • Upon completion of the leave and return to service with BCPS, employees are responsible for notifying the Office of Payroll (443-809-4240) as soon as possible to reestablish the payroll deduction plans.

➢ Healthcare Benefits
  • During this leave, the employee’s healthcare and flexible spending contributions will be delayed until employee is returned to paid status at which time missed contributions will be deducted. Employees can refer any questions to the Office of Benefits at 443-809-8943.
  • If the employee fails to return after the FMLA leave, BCPS will invoice the employee their portion of the healthcare premium.
  • Employees are entitled to continuing healthcare and flexible spending benefits for himself/herself and dependents during the FMLA eligible leave time.
  • BCPS-paid basic life insurance continues during the approved leave of absence period.
  • For any unpaid time, other salary deductions must be handled directly with the appropriate organization (e.g., First Financial Federal Credit Union, optional life insurance, etc.).

➢ Retirement
  • If the leave is for the employee’s own personal illness, the Maryland State Retirement Agency (MSRA) recognizes this leave as a qualified leave of absence for
service credit purposes; therefore, the unpaid service time may be purchased. Upon completion of the leave, employees must contact the BCPS Office of Retirement at 443-809-8949 to initiate the process. There is no timeframe to initiate the purchase of the service credit if the employee returns to work. However, if the employee is terminating, the paperwork must be received by the MSRA no later than 60 days after expiration of the leave in order for the service to be purchased. BCPS requests the paperwork no later than 45 days after the expiration of the leave in order to process in a timely manner.

- The Baltimore County Employees Retirement System (ERS) does not recognize this leave as a qualified leave of absence for credit purposes. Therefore, the service time cannot be purchased.

**Return-to-Work/Extensions/Resignation Requirements**

- Upon completion of a leave, all employees are to return to a position, request and be approved for an extension of leave (if available) or resign.
- At least fifteen (15) business days prior to their expected date of return to BCPS, employees are responsible for notifying the Office of Benefits, Leaves and Retirement of their intent to return to work, request an extension or resign via email, letter or phone call.

- **Return to Work**
  - For FMLA leave for the employee’s serious health condition, a return to work certification from the employee’s physician is required.
  - Upon completion of the leave and return to service with BCPS, it is the employee’s responsibility to notify the Office of Benefits, Leaves and Retirement via email, letter or phone call.
  - Upon completion of the leave and return to service with BCPS, employees are responsible for notifying the Office of Payroll (443-809-4240) as soon as possible to reestablish the payroll deductions.
  - MSRA-eligible employees must complete Maryland State form 26, *Request to Purchase Previous Service*, and submit it while in active employment. This form must be submitted to the BCPS Office of Retirement in order for the service to be purchased.

- **Extension of Leave**
  - Extensions are not available for this type of leave; however other types of leave may be available.

- **Resignation**
  - Employees who choose to resign from BCPS must complete a *Resignation Form*, which is available from principals/office heads or the Department of Human Resources.
  - Upon completion of the *Resignation Form*, employees must mail the original form to:

    The Department of Human Resources  
    Office of Leaves  
    6901 Charles Street, B Building, Towson, MD 21204  
    Fax no. 410-887-8950

  - Employees who resign from FMLA leave will be billed for BCPS’ portion of health benefits which were paid during the leave.
  - Employees who choose to resign may be entitled to continued healthcare coverage under COBRA, consistent with the timeframes noted in current law. The cost of this coverage is the monthly premium equivalent to the full cost plus an administrative charge of 2%.
SPECIAL RULES for INSTRUCTIONAL EMPLOYEES

- Instructional employees are “those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing nor does it include auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.”
- The period during the summer break when the employee would not have been required to report for duty is not counted against the employee’s FMLA leave entitlement.
- If the leave begins more than 5 weeks prior to the end of the academic term, BCPS may require the employee to continue taking leave until the end of the term if the leave is at least 3 weeks in duration and the return to employment would occur during the 3-week period before the end of such term.
- If the leave is for the birth/adoptive placement of a child, care for an immediate family member, (as defined in the appropriate bargaining unit agreement) with a serious health condition or to care for a covered service member and begins before 5 weeks prior to the end of the academic term, BCPS may require the employee to continue taking leave until the end of the term if the leave is at least 2 weeks in duration and the return to employment would occur during the 2-week period before the end of such term.
- If the leave is for the birth/adoptive placement of a child, care for an immediate family member, (as defined in the appropriate bargaining unit agreement) with a serious health condition or to care for a covered service member and begins before 3 weeks prior to the end of the academic term, and the duration of the leave is greater than 5 working days, BCPS may require the employee to continue taking leave until the end of the term.
- Upon return to work, an employee will be restored to his/her original position or an equivalent position with equivalent pay, benefits and other terms and conditions, in accordance with established school board policies and procedures and collective bargaining agreements.

Policy: Board of Education Policy 4203, Absences and Leaves
Rule: Superintendent’s Rule 4203, Absences and Leaves

Bargaining Unit Information
n/a

For informational purposes only. For additional questions or concerns, employees must refer to Board Policies, Superintendent’s Rules, appropriate bargaining unit agreements and FMLA regulations.