

## Family Medical Leave Act (FMLA) – Employee Process

### How do I request FMLA Leave?

To take FMLA leave, you must provide your Location with appropriate notice. If you know in advance that you will need FMLA leave (for example, if you are planning to have surgery or you are pregnant), you **MUST** give at least 30 days advance notice. If you learn of your need for leave less than 30 calendar days in advance, you must give notice as soon as you can (generally either the day you learn of the need or the next work day). When you need FMLA leave unexpectedly (for example, if an eligible family member is injured in an accident), you **MUST** inform your location as soon as you can. **Per FMLA regulations**, you **MUST** follow your locations usual notice or call-in process and procedures unless you are unable to do so (for example, if you are receiving emergency medical care), failure to follow locations procedures may result in delay or denial of FMLA.

The regulations outline different notification procedures for planned (foreseeable) and unplanned (unforeseeable) absences. In either case, you must give your employer adequate and timely notice when FMLA is needed. Otherwise leave can be disallowed or delayed and an absence counted towards discipline.

#### **Foreseeable absences - 30 calendar days or "as soon as practicable."**

A 30-day advanced notice is required for planned leaves, but if that is not possible, notice must be given as soon as practicable. Ordinarily this means within one or two business days of when you learn of your need for leave.

*Example: Your doctor tells you today that your son must have surgery next week. You should inform your employer of your need for leave within the next two business days.*

#### **Unforeseeable absence - "As soon as practicable" / within one or two business days**

Since advanced notice is impossible for unplanned absences, you are required to give notice "as soon as practicable" - i.e., within one or two working days after you become aware of the seriousness of the condition. Notice may be given in person, in writing, by telephone, or fax machine.

While you don't have to specifically ask for FMLA leave for your first leave request, you do need to provide enough information so your employer (work location) is aware it may be covered by FMLA. Be straightforward and give clear information about your need for leave (if you know your leave is for an FMLA qualifying reason, just say so). For example, "I fell last night and I believe my leg may be fractured, I am going to see the doctor today and I may be out for a few weeks, could you please send me the FMLA packet so that I can give it to my doctor to complete". By being clear, your location can make a quick determination as to whether you or your eligible family member's condition may qualify as a serious health condition, which will trigger the Leaves Management's responsibilities under FMLA. If you do not give your location enough information to know that your leave may be covered by FMLA, your leave may not be protected. **COMMUNICATION IS KEY!**

## Medical Certification – FMLA Packet

Once you have received your FMLA Packet you have within **15 (fifteen) calendar days** from the date notated to return the **REQUIRED Acknowledgement, Request and the Health Care Provider Certification**. It is your responsibility to ensure that a Complete, Sufficient and Timely certification from your health care provider is submitted as well as the cost associated with having it completed. If you fail to provide the requested and required medical certification, your FMLA may be denied.

The Medical Certification **MUST** include some specific information, including:

- Contact information for the health care provider
- When the serious health condition began
- How long the condition is expected to last
- Appropriate medical facts about the condition (information on symptoms, hospitalization, doctors visits (specific dates of latest treatments) and referrals for any future treatment.
- Whether you are incapacitated (unable to work) or what the care your eligible family member is in need of by you (the employee).
- Whether you need leave:

**Continuously** (estimated date range) **OR**

**Intermittently/Non-continuous**, or **Reduced Schedule** include either the dates of any planned leave or the date range and estimated frequency and duration of expected incapacity due to the condition, as well as information showing the medical necessity for intermittent use. **Intermittent FMLA Leave for birth and bonding is not allowed, it must be taken in one continuous block of time.**

### If Leaves Management:

- Finds that necessary information is missing from your certification, you will be notified of what additional information is needed to make the certification complete. You **MUST** provide the missing information within **7 (seven) calendar days**. If you fail to provide the requested missing information, your FMLA may be denied. *Also, a possible denial of payment for the days in question and in appropriate disciplinary action.*
- Believes the medical condition described in the certification does not meet the *serious medical condition standard* for FMLA then it may choose to ask the employee to provide an amended certification with more information so a better determination can be made as to whether the condition meets the FMLA standard.
- Has concerns regarding the validity of your certification, Leaves Management may contact physician for clarity, and/or a second or third opinion may be required.

## Communication with your Location and Leaves Management is KEY

Ongoing communication between you, your location and Leaves Management will make the FMLA process run much more smoothly. Each has to follow guidelines about notifying the other when FMLA leave is being used.

You will need to inform Leaves Management if your need for FMLA leave changes while you are out (for example, if your doctor determines that you can return to work earlier than expected or your leave frequency and duration changes significantly from that which was originally approved) new certification may become necessary. You should maintain periodic updates with your location regarding your status and your intent to return to work (*FMLA should not mean employee and employer have an adversarial relationship during this process*).

Leaves Management **MUST** notify you if you are eligible for FMLA leave within five business days, (*because of extenuating circumstances* Leaves Management notifications are within five-ten business days) of your first leave request.

**If approved, any accrued time available to you will be used to compensate you while on leave (not an option).**

Also information regarding health benefits and return to work will be included in notification.

**If you are NOT eligible**, the reason for ineligibility will be stated.

**If Intermittent FMLA has been approved**, when calling in you must at least state that your absences is for the FMLA reason you are approved for. Please be aware that Intermittent and Continuous FMLA are 2 different requests, if your certification states your need is intermittent you cannot use it in a continuous manner without additional certification from your physician.

*Failure to follow Locations call-in process and policy, timely inform Location so Leaves Management can be informed, return required/requested documentation and receive prior approval ...may result in denial of payment for the days in question and in appropriate disciplinary action. **Communication is Key.***

- Please don't assume that a submitted doctor's note automatically qualifies you for FMLA or for an Approved Sick Leave, a leave of 4 or more days requires additional documentation for proper designation **as well as** Leaves Management's approval.
- Please submit your documentation using **1 (one)** type of submittal: Email, Fax, Mail **or** In Person (*this will eliminate duplicate paper handling and processing...thus increased response time*) If you have not received a response within **5-10 work days** after your submittal, please contact Leaves Management.
- There is a 2-work day notice requirement that needs to be given to the Location and Leaves Management for Early Returns from **Continuous FMLA**
  - **Extending Leave Time:** There is a 7 calendar day notice requirement and physician documentation that must be received by Leaves Management. Extensions **MUST** be approved **PRIOR** to the extension taken.
- Employees out on an Approved Sick Leave (Non-FMLA) **MUST** be released to return to work by Mercy. An employee **cannot** return to work unless location has received notification from Leaves Management that a release from Mercy has been given.

*Employee's failure to follow these processes may result in a denial of payment for the days in question and in appropriate disciplinary action.*

**Baltimore City Public Schools**  
**FREQUENTLY ASKED QUESTIONS**  
**Family Medical Leave Act (FMLA)**  
and other leaves City Schools offers

Please keep this information for your reference

**1. What is FMLA (Family Medical Leave Act)**

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for self and eligible family members for specified medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. FMLA allows eligible employees the right to take leave from work for up to 12 weeks/60 days in a 12-month period. Leave may be taken for: birth of a child, the placement of a child with the employee for adoption or foster care, need to care for an eligible family member with a serious health condition, military or employees own serious health condition.

**2. How is my FMLA calculated to know if I meet the eligibility requirements?**

For an employee to be eligible to take leave under the Family and Medical Leave Act, the employee must have been employed for at least 12 months, **AND** have at least 1,250 “hours of service” during the previous 12-month period. **Hours of service means** hours actually worked by the employee. It does not mean hours paid. Thus, paid non-working time — such as vacations, holidays, furloughs, sick leave, or other time-off (paid or otherwise) — does not count for purposes of calculating one’s FMLA eligibility. The 1,250 hours include only those hours actually worked for the employer. Paid leave and unpaid leave, including FMLA leave, are not included.

**3. I think I may need some time off for a covered situation. How do I start the FMLA process?** Notify your supervisor that you will need time off and you must submit the appropriate FMLA packet to Leaves Management.

Packets can be found at <https://www.baltimorecityschools.org/> click on Staff Member, click on Leave and FMLA, download appropriate packet.

**4. What are my responsibilities if I am taking FMLA?**

- **Foreseeable absences**
  - Require a 30 day advance notice for planned leaves or “as soon as practicable” within one or two business days of when you become aware of your need for leave.
    - Ex: births, surgery
- **Unforeseeable absences**
  - Unplanned absences “as soon as practicable” within one or two business days after you become aware of the seriousness of the condition.
    - Ex: Accidents, emergency surgery

Provide periodic reports on your status an intent to return to work. Provide recertification documentation when necessary. Stay in touch with your supervisor and communicate changes in your leave or your ability to return to work in a timely fashion. If taking intermittent leave, follow work locations rules for calling in your absence and providing information about your absence. If you do not know the department rules, ask your supervisor.

*Failure to follow outlined processes and procedures, and turn in required documentation in the time period specified may result in denial of payment for days in question and may result in disciplinary action up to and including termination.*

**5. How can I submit my FMLA packet to Leaves Management?**

You may send it by fax, by email or by dropping off at the Central Office on North Ave (preferred method). Whatever option you choose for submission **only submit once**. Duplicate submissions slow down the FMLA processing time considerably. Leaves are processed as quickly as possible in the order they are received.

**6. Will I be paid while on FMLA?**

Any accrued time you have available will be used to compensate you while you are out on an approved FMLA leave. You should check with your supervisor, payroll or your pay stub regarding your accrued leave balance to determine whether your FMLA will be paid or unpaid.

**7. Must I use paid leave during FMLA leave?**

Yes, any accrued time you have available will be used to compensate you while out on an approved FMLA leave.

## **8. Will I still have my insurance benefits while FMLA?**

- If you are currently enrolled in Baltimore City Public School's health care plans and are still receiving a paycheck, your healthcare premiums will be deducted from your paycheck as normal.
- If you are currently enrolled in Baltimore City Public School's health care plans and your status is unpaid or you lapse into unpaid status you must continue to pay your **EMPLOYEE** contributions. City School's Finance department will invoice you your premium amounts.
  - ^ If you are invoiced by the Finance department and your **EMPLOYEE** contributions are not paid for more than three pay periods your benefits will be terminated and you will have a right to COBRA continuation coverage. A COBRA election form will be mailed to your address on file by our Third Party Administrator. (COBRA is a temporary extension of coverage pursuant to the Consolidated Omnibus Reconciliation Act of 1985. COBRA continuation coverage can become available to you and to other covered members under your plan when you otherwise would lose your group health care coverage.)

## **9. When can I expect to here if my FMLA request was approved?**

You and your supervisor will receive an initial notification by email stating that request has been received by Leaves Management. *(Your supervisor should use this email as documentation that you have submitted a request and are awaiting a determination)* Your request will be processed as quickly as possible in the order it was received. Once processed you and your supervisor will receive an email designation of your leave request. Please note: Always make sure that your City Schools email address is accessible to you. Your City Schools email address is our primary means of communication (not just for Leaves Management but for all City Schools communication).

## **10. My supervisor is insisting that my time off is FMLA, although I do not want my absence to be called FMLA. Can City Schools designate my absence as FMLA against my wishes?**

Yes. If you are eligible for FMLA and are taking time off for a covered situation, Leaves Management can designate the time off as FMLA even if you do not want FMLA. If you do not believe your situation is covered by FMLA, speak with Leaves Management.

## **11. Can I request sick leave or vacation for a serious health condition and not count this toward the FMLA?**

No, such a request should automatically count as FMLA leave if your absence meets the FMLA criteria.

## **12. What happens if I do not complete the FMLA packet?**

If you fail to request FMLA leave in advance and you knew you would need the time off, Leaves Management may delay the start of your FMLA leave for 30 days. If you fail to request FMLA leave and your absence was known to be for an FMLA qualifying reason, it will be counted against your FMLA leave entitlement. If you fail to submit the required FMLA packet, your FMLA leave may be delayed or even denied. If you fail to submit requested recertification, future FMLA leave may be delayed or denied. Absences not covered under FMLA may be counted as occurrences per the attendance reliability program.

## **13. I am a full-time 10-month employee. How does the FMLA apply to me?**

FMLA covers you assuming you meet the eligibility criteria set out in the policy. FMLA only governs leaves of absence from time you would otherwise be working your 10 month schedule. The two months that you are off during the summer do not count against your FMLA entitlement.

## **14. I am a part-time employee, am I eligible for FMLA?**

Part-time employees may be eligible for FMLA, but must meet the same eligibility requirements as a full-time employee.

## **15. Will I be returned to my former position after FMLA leave?**

Under FMLA, you will be returned to the same or equivalent position upon return from FMLA leave. Exceptions might exist if your job would have been lost if you had been working, such as through position elimination, lay off, non-renewal, program curtailment or cause that would otherwise support dismissal.

## **16. I was not given an essential physical function and/or position description with my FMLA packet. Is it required?**

If you were not given essential physical functions and/or description for your position please use the space provided on the FMLA packet to denote your job description. Please share with your physician the physical requirements/duties of your position when he or she completes the health care certification form.

**17. What if I am not completely healed at the end of the FMLA leave?**

If you have not exhausted all of your FMLA entitlement you are required to submit an additional FMLA packet to extend your leave. This extension must be submitted no later than 7 days prior to the end date of your previously approved leave. If you have exhausted all of your FMLA entitlement and you are totally or partially unable to return to work you will need to PROMPTLY submit an ADA Accommodations packet to the EEO office. The EEO office will initiate an interactive process with you to determine whether workplace accommodations, modifications or extensions to your leave may be warranted. If your leave of absence extends beyond the maximum 12 weeks/60 days of FMLA, you are no longer protected by the benefit provision provided under FMLA.

**18. What is the method City Schools uses for determining 12-month period?**

The 12-month period is measured backward from the date an employee FMLA leave request begins. Each time an employee takes FMLA leave, the remaining leave entitlement is the balance of the 12 weeks/60 days which has not been used during the immediately preceding 12 months. Employees **are not entitled** to 12 weeks of FMLA leave per calendar year.

**19. If I am off work for a work-related injury covered by workers compensation, does the FMLA apply?**

Yes, if the injury or illness meets the definition of a serious health condition. An FMLA packet will need to be completed and submitted to Leaves Management. Workers comp and FMLA run concurrent.

**20. I am a full-time 10-month employee and had my baby in June. How does the FMLA apply to this situation?**

FMLA covers you assuming you meet the eligibility criteria set out in the policy. Baby births at the end of a school year may not exhaust all of your FMLA entitlement therefore you would be eligible to take the remaining FMLA time at the beginning of the new school year. Your designation email/letter will specify your options. City Schools does not allow intermittent FMLA for this type of leave. Summer months do not count against your FMLA entitlement, therefore using the remainder of your leave at the beginning of the new school year is not intermittent use. If you do not qualify for FMLA baby birth and bonding, you will be granted City Schools Maternity Leave of 10 weeks/50 days. The 50 days start with the birth of the baby or last day worked (no matter if the baby is born in the summer, you are not afforded the same benefit as FMLA). There is no extension to FMLA baby birth and bonding once the FMLA has exhausted.

**21. My spouse and I both work for City Schools. Does that affect our FMLA leave rights?**

Each eligible parent shall have FMLA leave independent of each other except for the birth or adoption of a child or placement of foster child, or care for a service member who was injured or became ill in the line of duty. In those exceptions, the partners share 12 weeks/60 days (26 weeks for a service member). *For example*, both parents could take 6 weeks to care for their newborn, for a total of 12 weeks. No more time can be taken under the FMLA for the newborn, but each parent has 6 weeks left to use for other FMLA covered situations. Parents should discuss their leave options prior to submitting their FMLA packet. **Please note**, time taken at time of birth of baby is FMLA qualifying. If you return to work after the birth of a baby or placement of a child through foster care or adoption and have not exhausted all of your FMLA entitlement, you are not allowed to take leave again in the 12-month period for this same reason. Baby birth is an FMLA qualifying event and must be taken in one continuous block of time. City Schools does not allow this covered situation to be taken intermittently.

**22. What if I give notice of intent not to return? Are my benefits terminated?**

Yes, as long as the notice is unequivocal or definite. One form of an unequivocal notice is when you submit a written letter for resignation. In that case you would have the option to continue coverage through COBRA following the termination of employment.

**23. Can I be discharged while on FMLA leave?**

You cannot be discharged simply because you took FMLA leave. However, termination of employment may occur while you are on approved FMLA leave if your job would have been lost if you had been working, such as through position elimination, lay off, non-renewal, program curtailment, or cause that would otherwise support dismissal.

**24. Can I be disciplined while on FMLA leave?**

You cannot be disciplined simply because you took FMLA leave. However, a supervisor may discipline you for any legitimate reason that is not related to the FMLA leave. For instance, if you fail to follow established call in protocol for recording absences.

**25. Can City Schools place me on FMLA leave if I did not request FMLA leave?**

Yes, Leaves Management may place you on FMLA if City Schools knows or has reason to know you are off work for an FMLA qualifying reason.

**26. Can Leaves Management speak to my healthcare provider without my authorization?**

It's not required that you give Leaves Management permission to speak with your healthcare provider. Sometimes an employer cannot read or understand the health care provider's comments and clarification is needed or needs to check its authenticity. To save everyone time please make sure you talk with your physician to make sure you understand how he or she has completed the packet. Always make a copy for your records. It is your responsibility to ensure that a complete and sufficient packet is turned into Leaves Management.

**27. Why is Leaves Management asking me to recertify a serious health condition when I have already provided medical documentation before?**

Leaves Management may ask for recertification of your need for FMLA leave in a few different situations. First, ongoing conditions can change or heal. Leaves Management may request recertification every 30 days unless the original certification specified a certain date when the condition would be healed or updated, however, in all cases leaves management may request recertification at least annually, or may choose to seek recertification every 6 months even if the certification includes a certain date when the condition would be healed or updated. Second, sometimes the healthcare provider may incorrectly estimate the length or frequency of your absences. If City Schools learns of new developments that cause Leaves Management to question your need for leave or question the accuracy of the original certification, City Schools may seek recertification in those situations.

**28. What is the difference between Continuous and Intermittent/Reduced Schedule FMLA?**

**Continuous** – One continuous period/block of time

**Intermittent/Reduced** – medically necessary leave taken in increments over a period of time

**30. I am approved for intermittent FMLA. Do I need to call in for each absence?**

Yes. You need to follow your work locations call in process and procedure (i.e. when to call, whom to call, where to call) for intermittent or unplanned absences. If you do not know those call in procedures, ask your supervisor.

**29. I am approved for intermittent FMLA. Do I need to provide a new certification for each absence?**

No, you do not need new medical certification of the condition that caused the intermittent absence if that condition has already been approved.

**30. I am approved for intermittent FMLA. Can my supervisor ask me questions about my absences?**

Yes. The supervisor has an obligation to accurately track your absences. When calling out, you need to provide enough information to your supervisor to let them know that your absence is due to your approved FMLA qualifying reason.

**31. I am approved for intermittent (for treatment for myself or family member). Do I need to work with my department to make those appointments, or can I schedule them when it is convenient for me?**

You must work with your supervisor and make a reasonable effort to schedule those planned appointments at a time that will not disrupt the work of your location. Provide your supervisor with a treatment schedule so your supervisor can plan accordingly.

**32. If I was approved for intermittent FMLA but I now need continuous FMLA what do I do?**

If the circumstances in your submitted certification change significantly (whether it be changes in frequency and duration or change from intermittent to continuous leave) you will be required to submit a new certification to Leaves Management immediately.

**33. What if I wanted to return from my FMLA before my approval end date?**

A 2-work day notice is required to Leave Management and your supervisor prior to an early return to work from an approved FMLA.

**34. Can I work while I'm out on FMLA?**

You are not to work while out on FMLA as your certification states you are incapacitated. As well, your supervisor should not be asking you to do any work-related duties. Please note, City Schools presently does not have a work from home policy and when it does you will need to speak to the EEO office to see if working from home is applicable to your position.

**35. Will I still receive the benefit of FMLA even if I do not have any accrued leave time?**

As long as you meet the FMLA eligibility requirements your request for FMLA will be approved. The time that you are out on FMLA will be unpaid status.

**36. I supplied my work location a doctor's note, is that sufficient?**

A doctor's note for over 5 days of absence is not sufficient as it does not provided the necessary information to determine the designation of your absences and leave status. City School's requires that a complete and sufficient FMLA packet be submitted to Leaves Management within 15 calendar days of notification.

**37. Do I need to communicate with my work location while out on FMLA?**

You should maintain periodic updates with your work location regarding your status and your intent to return to work. Ongoing communication between the employee and employer is critical throughout the FMLA process. Communication is Key!

**38. Do holidays and school closings count against my FMLA entitlement?**

If a holiday or a school closing occurs within a week taken as FMLA leave, that holiday or school closing counts against your FMLA entitlement. However, if the holiday or school closing is for a week or more (i.e.: winter and spring breaks) those days will not count against your FMLA leave entitlement.

**39. I was denied FMLA and approved for sick leave, what do I need to do to return to work.**

If your physician returns you to work, please submit to Leaves Management a Return-to-Work note from your physician and any restrictions you may have to your return and a Mercy examination will be scheduled for you. You will need to be cleared by Mercy prior to you being released to return to work. If you have restrictions to your return, you will need to submit an ADA accommodations packet to the EEO Office for review on whether or not your restrictions can be accommodated.

**40. I have a lot of sick leave. Why do I need to go through the FMLA process for my absence?**

City Schools is required to designate and track FMLA leave even if you have sufficient sick leave time to cover being paid for the leave of absence. **Remember** FMLA and your sick leave time run together at the same time. Sick leave is not an approval of leave, it's how you are compensated while on an approved FMLA leave. Please make sure you have applied for FMLA leave before applying to your unions' sick leave bank as your union sick leave bank is not the approver of your leave.

**41. Will I still have my insurance benefits under NON-FMLA Sick Leave?**

- If you are currently enrolled in Baltimore City Public School's health care plans and are still receiving a paycheck, your healthcare premiums will be deducted from your paycheck as normal.
- If you are currently enrolled in Baltimore City Public School's health care plans and are in unpaid status or lapse into unpaid status for more than three pay periods your benefits will be terminated and you have a right to COBRA continuation coverage. A COBRA election form will be mailed to your address on file by our Third Party Administrator. (COBRA is a temporary extension of coverage pursuant to the Consolidated Omnibus Reconciliation Act of 1985. COBRA continuation coverage can become available to you and to other covered members under your plan when you otherwise would lose your group health care coverage.)

**42. What forms do I need to fill out for sick leave bank?**

Please contact your union representative for the process and procedure you will need to follow regarding sick leave bank and sick leave bank use.

**43. Where is my medical information kept?**

Leaves Management is the current storage location for your FMLA and medical information. The information is kept confidential.