

## FAMILY AND MEDICAL LEAVE

### **A. Generally**

The Winchester Public School Board recognizes its obligation to provide its eligible employees with unpaid leave pursuant to the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et seq., for the following leave situations:

1. The birth and care of a newborn child;
2. The adoption or foster placement of a child;
3. To care for an employee's spouse, parent, or child with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the essential functions of the employee's job; and
5. Because of any qualifying exigency as defined in Department of Labor regulations, arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

### **B. Eligibility**

To be eligible for leave under this policy the employee must have at least twelve (12) months of service with Winchester Public Schools and have worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., in the twelve (12) months preceding the commencement of the leave. The twelve (12) month period for calculating family and medical leave eligibility shall be measured backward from the date an employee uses an FMLA leave.

### **C. Procedures**

To the extent that an employee is entitled to compensated leave under other Winchester Public School policies, such paid leave shall be substituted for unpaid FMLA leave. Otherwise, family and medical leave is unpaid. When paid leave is available, the employee must satisfy any procedural requirements of the division's paid leave policy.

If the necessity for leave is foreseeable, the employee shall provide the school division with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. Where the leave is not foreseeable, notice should be provided as soon as practicable (i.e., within one or two working days).

Employees are entitled to either twelve (12) or twenty-six (26) weeks of FMLA leave depending on the qualifying event for which leave will be taken. In no circumstance will leave in excess of twenty-six (26) weeks be available during any rolling 12 month period. Spouses who are both eligible for family and medical leave and are employed by Winchester Public Schools shall be granted family and medical leave as follows:

1. A combined total of 12 work weeks per year when the leave is taken for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition;
2. A combined total of 26 workweeks per year when the leave is taken to care for a covered servicemember; or
3. A combined total of 26 workweeks per year when the leave is taken as a combination of leave to care for a covered servicemember and leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition. However, if the leave taken by the spouses includes leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition, the leave for that reason shall be limited to 12 workweeks per year.

#### **D. Benefits During Family and Medical Leave**

Employees on family and medical leave shall receive the group health insurance plan coverage on the same conditions as coverage would have been provided if the employee had been working during the period of leave. The School Board does not pay the employee's share of the premiums for other benefits (e.g. life insurance, and VRS contributions) during the period of unpaid leave. Annual leave and sick leave allocations do not accrue while the employee is on leave without pay.

#### **E. Return to Work**

An employee on family and medical leave shall provide the division at least two work days' notice of the intent to return to work. The employee shall be returned to the same or equivalent position at the end of the family and medical leave unless the division shows that the employee would not otherwise have been employed at the time reinstatement is requested.

Additional return to work provisions apply to instructional employees, as outlined in GCBE-R.

#### **F. Outside Employment**

An employee who is on family and medical leave may not engage in employment for any other employer or self-employment while on leave. Falsification of records and failure to correct records known to be false are violations of this policy and will result in discipline which may include termination from employment.

This policy is intended to supplement but not replace the provisions of the Family Medical Leave Act. Reference should be made to the Act for any requirements or provisions not set out in this policy or regulation GCBE-R.

Adopted:

January 20, 2003, Revised September 6, 2000, November 3, 2008, September 8, 2009,  
August 8, 2011, February 27, 2017

Legal Refs.: 29 U.S.C. §§ 207, 2611, 2612, 2613, 2614, 2618, 2619.

29 C.F.R. 825.110, 825.115, 825.122, 825.124, 825.125, 825.200,  
825.203, 825.207, 825.300, 825.301, 825.302, 825.303, 825.305,  
825.306, 825.307, 825.309, 825.310, 825.311, 825.312, 825.600,  
825.602, 825.603, 825.800.

Cross Refs.:	GCBD	Professional Staff Leaves and Absences
	GCBD-1	Leaves and Absences
	GCBD-2	Sick Leave and Sick Leave Bank
	GCBD-3	Leave of Absence Without Pay
	GCBD-4	Personal and/or Emergency Leave
	GCBD-6	Annual Leave
	GCBE-R	Family and Medical Leave
	GCQA	Nonschool Employment by Staff Members

Attachment: Employee Rights Under the Family and Medical Leave Act (WHD  
Publication 1420)