

**TALBOT COUNTY  
PUBLIC SCHOOLS  
EASTON, MD 21601**

**POLICY CODE  
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## **PROFESSIONAL AND SUPPORT STAFF LEAVES AND ABSENCES - AR**

Professional and Support Staff Members shall be entitled to request leaves and absences as defined by Section I., General Board Policies and/or Section III, The Family and Medical Leave Act of 1993 (FMLA). All leaves requested or allowed for Workmen's Compensation, the Teachers' Negotiated Agreement, the Support Staff Negotiated Agreement, the TASA Memorandum of Understanding and this Administrative Regulation shall be considered and used to meet all or part of the FMLA leave requirement(s).

The Teachers' Negotiated Agreement and the Support Staff Negotiated Agreement take precedence over the provisions of this Administrative Regulation only to the extent that they are inconsistent.

### **I. General Board Policies**

- A. Sick leave is a designated amount of paid leave that is to be granted to an employee for medical reasons. Permanent employees eligible for benefits shall be entitled to the following prorated sick days yearly:

10 month employees	13 days
11 month employees	14 days
12 month employees	15 days

- B. The maximum number of days of sick leave which may be accumulated is unlimited. Current Maryland regulations permit such cumulative leave to be transferred without change to any public school system in Maryland.

- C. Illness in Family:

Eight (8) days of sick leave can be used for illness of a member of an employee's family (child, spouse, parent, in-laws, brother, sister, grandparent) and/or any person living regularly in the household of the employee. A leave Request Form must be submitted. Note: This leave is limited to one (1) employee in cases where multiple family members are employed by Talbot County Public Schools.

- D. Any bereavement leave taken in excess of days permitted shall be at a pro-rated reduction of salary.
- E. A limited number of sick leave days may be requested for use by eligible staff each work year for personal business, if a request is submitted in advance via the Talbot County Public Schools Leave Form, provided the matter cannot be conducted outside the regular duty day. The request must be submitted 48 hours in advance and prior supervisory approval is required. The supervisor may request documentation to assure the legitimate use of personal leave.
- F. Employees who leave their position and who have used any sick or other leave beyond those earned shall have their salary adjusted for the appropriate number of days.
- G. Attending a funeral of a close friend or relative (other than those named in a Negotiated Agreement) in excess of personal leave regulations shall be at a pro-rated salary reduction.
- H. Professional Meetings

No salary deduction when approval has been given in advance by the Superintendent or designee.

- I. Absence because of weather on a school day shall be at a pro-rated deduction of salary.
- J. Other short term leaves supported by full explanation in writing; a pro-rated salary deduction to be made upon approval of the Superintendent. Other long-term leaves supported by full explanation in writing; a pro-rated salary deduction to be made upon recommendation by the Superintendent, with approval of the Board of Education.
- K. Military Leaves for Inactive Duty Training

In conformance with Article 65, Section 42 of the Annotated Code of Maryland, all employees who are members of the military reserves or militia shall be entitled to leaves of absence without loss of pay, on all days when engaged in training ordered under any State law or any law of the United States, during such time as they are on inactive duty training, not to exceed 15 days annually.

When members of the Maryland National Guard are recalled to active duty, they shall be entitled to long term leaves of absence without loss of pay or benefits, as required by the Annotated Code of Maryland.

In conformance with Federal law, Title 38, Section 2021 *et seq.* of the U.S. Code, entitled Veteran's Re-employment Rights, all employees shall be granted up to a four (4) year personal leave of absence without pay and shall be entitled to return to their job or one of like seniority, status and pay unless the additional period of service was imposed by law. Such employees shall also be entitled to the seniority status they would have had they kept the same position continuously during the period of military service. Employees are required to comply with the provisions of the laws governing reinstatement.

## **II. Administrative and Support Staff Annual Leave**

### **A. General Information**

1. Annual leave applies to most, but not all, twelve (12) month employees. It does not apply to ten (10) and eleven (11) month employees
2. Annual leave is calculated on the basis of July 1 - June 30 employment, consistent with the school system's fiscal year.
3. The use of annual leave must be approved in advance by the employee's supervisor and the Superintendent or designee on an approved leave form.

### **B. Administrative Staff**

1. Twenty (20) annual leave days are available each year. (July 1 -June 30). The Board of Education encourages its employees to take this leave annually; however, twenty (20) days of annual leave may be carried over to the next duty year. The maximum number of annual and accumulated leave days shall be forty (40).
2. Annual leave must be approved in advance by the Superintendent or designee.
3. Annual leave used between August 15 and September 15 should normally not be more than one day at a time unless approved by the Superintendent or designee.
4. Upon termination or retirement, any unused annual leave accrued the prior fiscal year shall be paid in full. All annual leave accrued during the fiscal year in which the administrative employee terminates his/her employment shall be paid on a pro-rated basis equal to the amount of time worked in their final year. If more than the pro-rated maximum have already been used, the employee's final salary payment shall be reduced accordingly.

Example: Termination on September 30 is 25 percent of the fiscal year and a maximum of 5 annual leave days (25% of 20 annual leave days) shall be payable. If the employee has already used 10 days, a payroll reduction of 5 days salary shall be made.

C. Support Staff

1. Permanent twelve (12) month educational support personnel shall begin to accrue, but not be eligible to use, annual leave during their first fiscal year of employment. During this initial period of employment each employee is credited with a 1/2 day of annual leave for each full month of employment which may be used after July 1 following their date of employment.
2. Following the employee's first anniversary date of employment, each eligible employee is credited with one (1) day of annual leave for each full month of employment. These annual leave days shall be available for use during the next fiscal year of employment.
3. During the succeeding year of employment and each year thereafter, each eligible employee is credited with one and one-fourth (1-1/4) days of annual leave for each full month of employment. These annual leave days (maximum 15) shall be available for use during the next fiscal year of employment.
4. On July 1 following six (6), seven (7), eight (8), nine (9), and ten (10) years of employment, eligible twelve (12) month permanent employees shall receive an additional one (1) annual leave day for each year up to a maximum, grand total of twenty (20) days.
5. A maximum of ten (10) days of unused annual leave are automatically transferred to the succeeding year. Any annual leave in excess of ten (10) days not used during the current year (prior to June 30) is permanently eliminated and lost. Employees may request the Superintendent to grant a special exception to transfer additional unused vacation days under special circumstances. Requests should be made in writing with a justification of need.
6. Creditable annual leave may be used by the employee prior to the termination or retirement date provided the Board receives a sixty (60) day prior notice from the employee. Any annual leave not used will be paid upon termination.

**III. The Family and Medical Leave Act of 1993 (FMLA)**

A. General Policy

Each eligible employee will be granted family and/or medical (FMLA) leave of absence without pay for up to twelve (12) weeks during any twelve (12) month period. The twelve (12) month period for FMLA leaves shall be defined to begin on July 1, and end on June 30. An eligible employee is one who has been employed with Talbot County Public Schools for at least 12 months in total, and for at least 1,250 hours of service during the 12 months prior to the commencement of his or her leave. FMLA leave will be granted for one or more of the following reasons:

1. For the birth of a son or daughter and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care.
3. To care for the employee's spouse, son, daughter, or parent with a serious health condition; or
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

B. Scope

An employee must first use all of his or her accumulated paid annual leave or sick leave for purposes of family and/or medical leave, prior to using his or her unpaid leave; however, in no event shall such leave exceed an aggregate of twelve (12) weeks in any twelve (12) month period (July 1 through June 30) except as defined and allowed in Sections A and B, above.

In any case in which both spouses, who are employed with Talbot County Public Schools, are entitled to family and/or medical leave, the aggregate number of work weeks of leave to which both are entitled to is limited to 12 work weeks during any 12 month period (rather than 12 weeks each) for the birth of a son or daughter or to care for the child after birth, for placement of a son or daughter for adoption or foster care, or to care for the child after placement, or to care for a parent (not a parent-in-law) with a serious health condition.

C. Conditions of Leave

1. Written medical certification is required to support an employee's claim for FMLA leave on account of his or her own serious health condition or to care for a seriously ill child, spouse, or parent. Certification must include the date on which the serious health condition commenced; the probable duration of the condition; the appropriate medical facts within the knowledge of the health care provider regarding the condition.

In the case of the employee's own serious health condition, a written medical certification that the employee is unable to perform the functions of the position of the employee must be provided.

Talbot County Public Schools, in its discretion, may require a second medical opinion at its own expense. If the first and second medical opinions differ, Talbot County Public Schools may require, at its own expense, the opinion of a third health care provider, jointly approved by Talbot County Public Schools and the employee. The opinion of the third health care provider will be final and binding.

The Talbot county Public Schools may also require recertification at reasonable intervals.

2. If medically necessary for a serious health condition of the employee or his or her spouse, child or parent, FMLA leave may be taken on an intermittent or reduced leave schedule. The employee must submit in writing to Talbot County Public Schools, the dates and duration of the treatment and a statement about the medical necessity. If the FMLA leave is foreseeable based on planned medical treatment, Talbot County Public Schools may require the employee to temporarily transfer to an alternative position, with the equivalent pay and benefits, which better accommodates recurring periods of absence or a part-time schedule.

#### D. Notice & Report Requirements

1. The employee has a duty to make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the school (or department), subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate.

Additionally, the employee shall provide Talbot County Public Schools with not less than 30 days' notice before the date FMLA leave is to begin, except if such treatment requires FMLA leave to begin in less than 30 days, then the employee shall provide such notice as soon as practicable. In cases of illness, the employee is required to report periodically on his or her leave status and intention to return to work.

2. In cases where FMLA leave is taken because of the birth of a child, adoption or placement of a child for foster care and the FMLA leave is foreseeable, the employee shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, except that if the date of birth or placement requires leave to begin in less than 30 days, the employee shall provide notice as soon as practicable.

#### E. Retention of Employee Benefits During Leave

1. Any eligible employee who takes FMLA leave shall be entitled, on return from such leave, to be restored to the employee's position of employment held prior to the commencement of leave, or to an equivalent position with equivalent employment benefits, pay, and other conditions of employment. The taking of leave will not result in the loss of any benefits accrued prior to the date leave commenced.
2. The employee will not accrue any seniority or employment benefits during any period of unpaid FMLA leave or any right, benefits, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken FMLA leave unless there is a contract provision or Board policy so requiring.
3. As a condition of the restoration of employee benefits, an employee who takes FMLA leave because of his or her own serious health condition must receive certification from the health care provider of the employee that the employee is able to resume work.
4. Determinations regarding restoration of employment of employees employed by Talbot County Public Schools in an instructional capacity shall be in accordance with Talbot County Public Schools' policies and practices and any collective bargaining agreement, if applicable.
5. Talbot County Public Schools will maintain FMLA health care coverage under its group health plan to an employee who is granted an approved FMLA leave of absence at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such FMLA leave.

If the employee elects not to return to work after completing his or her FMLA leave, Talbot County Public Schools shall recover from the employee the cost of any premium payments made to maintain the employee's coverage, unless the failure to return to work is for reasons other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to FMLA leave or other circumstances beyond the employee's control.

F. Procedures

1. A request for family and/or medical leave of absence must be written, signed by the employee and submitted to the Personnel Administrator to be processed.
2. All requests for FMLA leave of absence due to illness must include sufficient medical certification stating: (a) the date on which the serious health condition

began; (b) the probable duration of the condition; and (c) the appropriate medical facts within the knowledge of the health care provider regarding the condition.

3. Additionally, the certificate for a request for FMLA leave to care for a child, spouse, or parent should give an estimate of the amount of time that the employee is needed to provide such care and a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent.
4. If the FMLA leave is due to the employee's own illness, the certificate must state that the employee is unable to perform the functions of his or her position.
5. Return from leave: An employee must provide a written notice of intention to return from FMLA status. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, written notification must be given to the Personnel Office at least five (5) working days prior to the employee's planned return.
6. Failure to return from leave: The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the Employee to immediate termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence or onset of her or his own serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the Personnel Office. This written request should be made as soon as the employee realizes that she or he will not be able to return at the expiration of the leave period.

G. Provisions Applicable To Employees In An Instructional Capacity

The following provisions apply to employees who are employed principally in an instructional capacity by Talbot County Public Schools and who are requesting FMLA leave to care for a family member with a serious health condition or because of the employee's own serious health condition. The main function of that employee must be to directly provide educational instruction. Teacher assistants, cafeteria workers, building service workers, bus drivers and other primarily non-instructional roles are not covered by these provisions.

1. Intermittent FMLA Leave Or FMLA Leave On A Reduced Schedule

FMLA leave that is foreseeable based on planned medical treatment and where the employee would be on FMLA leave for greater than twenty (20) percent of the total number of working days in the period which the leave would extend, Talbot County Public Schools may require that such employee elect either (A) to take FMLA leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or (B) to transfer temporarily to an available



alternative position offered by the employer for which the employee is qualified, and that has equivalent pay and benefits; and better accommodates recurring periods of FMLA leave than the regular employment position of the employee.

2. FMLA Leaves Taken Near The Conclusion Of An Academic Term

a. FMLA Leave Which Begins More Than 5 Weeks Prior To The End Of The Term.

Talbot County Public Schools may require the employee to continue taking FMLA leave until the end of such term, if:

- (1) the leave will last at least 3 weeks; and
- (2) the return to employment would occur during the 3-week period before the end of such term.

b. FMLA Leave Which Begins During The 5 Weeks Prior To The End Of The Term

Except in cases where the employee takes FMLA leave due to his/her own serious health condition, Talbot County Public Schools may require the employee to continue taking FMLA leave until the end of such term, if:

- (1) the leave will last more than 2 weeks; and
- (2) the return to employment would occur during the 2-week period before the end of such term.

c. FMLA Leave Which Begins Less Than 3 Weeks Prior To The End Of The Term

Except in cases where the employee takes FMLA leave due to his/her own serious health condition, Talbot County Public Schools may require the employee to continue taking FMLA leave until the end of such term if the leave will last more than five working days.

H. The Talbot County Public Schools will require all employees to utilize forms promulgated by the Department of Labor in connection with FMLA leave.

I. Assault Leave

1. Definitions

Assault – An “assault” is committed when during the scope of Talbot County Public Schools employment, an employee becomes physically disabled as a result

of another person's physically harmful and intentional action against the employee.

2. Guidelines

- a. The employee shall submit to his/her immediate supervisor a signed statement justifying the need for assault leave. In addition, the employee shall provide a certificate from a licensed physician stating the nature and duration of the disability. The certificate from the licensed physician must explain the connection between the physical disability and the assault
- b. The supervisor shall forward this information to the Director of Human Resources and Student Services.
- c. The Director of Human Resources and Student Services, in conjunction with the employee's supervisor, will review the information to determine if the employee is eligible for assault leave.
- d. The Director of Human Resources and Student Services may require the employee to submit to an Independent Medical Examination conducted by a physician selected by the Talbot County Public Schools in conjunction with the decision whether to provide the assault leave or continue assault leave. The IME will be paid by the Talbot County Public Schools.
- e. The Director of Human Resources and Student Services will notify the employee of his/her decision in writing.
- f. If the Director of Human Resources and Student Services approves the employee's use of assault leave:
  - (1) The Director will charge the leave as assault leave and will not deduct the leave from any of the employee's accrued leave.
  - (2) The assault leave will terminate upon one of the following:
    - i. A decision by Workers' Compensation that the employee is not eligible for Worker's Compensation based on the alleged injury.
    - ii. The employee is able to return to work.
    - iii. The employee is eligible for disability retirement as determined by the Maryland State Retirement Agency.

- iii. If accommodations are identified by the physician to allow the employee to work full-time or part-time, and the employee declines to return to work despite the availability of the accommodations.
- g. An employee returning from assault leave must provide a certificate from a licensed physician releasing the employee to return to full duty.

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