

<u>Section G:</u> Human Resources	Knox County Board of Education Policy			
	Descriptor Term:		Descriptor Code:	
	Family and Medical Leave		G-464	Issued: 7/95
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PURPOSE

To entitle employees to take reasonable leave for a serious health condition, for the birth or adoption of a child, and for the care of a child, spouse or parent who has a serious health condition.

ELIGIBILITY

Anyone who has been employed for at least twelve (12) months by the Board and anyone who has at least 1,250 hours of service (Hours used for leave, even FMLA leave shall not be credited for service for the purposes of FMLA eligibility)¹ during the previous twelve month period.²

GENERAL PRINCIPLES

1. Any employee shall be granted, upon request, up to twelve (12) weeks unpaid leave for the birth or adoption of a child or the care of a child, spouse, or parent who has a serious health condition or when the employee is unable to work because of a serious health condition. Any female requesting leave due to pregnancy and childbirth shall be granted at least four (4) months leave.³
2. Any employee on maternity leave shall be permitted to use accumulated sick leave during the period of actual physical disability only. Otherwise, the maternity leave shall be unpaid leave. An employee may use up to thirty (30) days of accumulated sick leave for the adoption of a child. If both adoptive parents are employees, they are entitled to a combined total of twelve (12) workweeks of FMLA. Written verification from the adoption agency or other entity handling the adoption shall be required before the leave is granted.⁴
3. A physician's statement may be required by the Board when determining the period of actual physical disability.
4. Request for leaves and extension of leaves shall conform to state law governing all leaves of absence.⁵
5. Eligible employees are entitled to up to 12 weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty, or has been notified of an impended call to active duty status, in support of a contingency operation.
6. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

RESTRICTIONS

1. For foreseeable leave, the employee shall provide the Director of Schools with at least thirty (30) days written notice before the beginning of the anticipated leave.
2. The Director of Schools may require that a request for leave be supported by certification issued by a health care provider with the following information:
 - a. the date on which the serious health condition commenced;
 - b. the probable duration of the condition;
 - c. the appropriate medical facts within the knowledge of the health care provider regarding the condition; and
 - d. a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee is needed.
3. If there is any reason to doubt the validity of the certification provided, the Director of Schools may require, at the expense of the Board, an opinion of a second health care provider.
4. Once it has been established that the leave qualifies for FMLA, the Director of Schools/designee shall notify the employee that any unpaid leave shall run concurrently with FMLA.
5. Intermittent Leave - When an instructional employee requests foreseeable leave for planned medical treatment and the employee would be on leave for greater than 20% of the total number of working days in the period during which the leave would extend, the school may require that such employee elect either to take the leave for periods of a particular duration, not to exceed the duration of the planned medical treatment or to transfer temporarily to an available alternative position offered by the Director of Schools for which the employee is qualified, and that has equivalent pay and benefits and better accommodates recurring periods of leave. Instructional employees are those whose principle function is to teach and instruct students in a class, small group or an individual setting. This includes not only teachers, but also athletic coaches, driving instructors and signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principle job actual teaching or instructing nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.
6. Period Near the End of an Academic Term - (Instructional Employees) If leave is taken more than five (5) weeks prior to the end of the term, the Director of Schools may require the employee to continue taking leave until the end of the term if the leave is at least three (3) weeks of duration and the return of employment would occur during the three (3) week period before the end of the term.

If the leave is taken five (5) weeks prior to the end of the term, the Director of Schools may require the employee to continue taking leave until the end of the term if the leave is greater than two (2) weeks duration and the return to employment would occur during the two (2) week period before the end of the term.

7. Spouses employed by Knox County Schools are jointly entitled to a combined twelve (12) week leave for birth and care of a newborn child, for the placement of a child for adoption or foster care and to care for a parent who has a serious health condition.

REQUIREMENTS OF THE BOARD

1. The employee shall be restored to the same position of employment or an equivalent position with no loss of benefits, pay or other terms of employment.
2. The employee shall be kept under any group health plan for the duration of the leave.
3. The Board may recover the premium paid under the following conditions:
 - a. the employee fails to return from leave after the period of leave has expired; or
 - b. the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the control of the employee.

Legal References:

1. *Hinson v. Tecumseh Products Company*, 234 F. 3d 1268, 6th Cir. (2000).
2. Federal Family and Medical Leave Act 1993.
3. TCA § 49-5-702; TCA § 4-21-408.
4. TCA § 49-5-710.
5. TCA § 49-5-704.

Approved as to Legal Form 6/19/2017
 By Knox County Law Director
 /Gary T. Dupler/Deputy Law Director