

## Henry County Schools Family and Medical Leave Act (FMLA)

### Please read carefully

The Family and Medical Leave Act of 1993 requires Henry County Schools to provide up to sixty (60) days of unpaid, job-protected leave during a 12-month period for certain family and medical reasons. All employees of Henry County Schools that are classified in their position/job title as full time employees are eligible for FMLA leave. FMLA provides that if the employee returns to work prior to or on the first scheduled day following the 60<sup>th</sup> approved FMLA day, the employee will be reinstated to the same job or an equivalent job with the same pay, benefits, and terms and conditions of employment. Approved FMLA also provides attendance protection. The FMLA attendance, job, and benefit protection is exhausted with the 60 FMLA day maximum.

Note – The recently enacted *Families First Coronavirus Response Act (FFCRA)* which provides *Emergency Paid Sick Leave Act (EPSLA)* and *Emergency Family and Medical Leave Expansion Act (EFMLEA)* – reference Page 9 for information.

There are two types of FMLA:

- **Block FMLA** – Consecutive days of leave.
- **Intermittent FMLA** – Leave taken on a sporadic basis (partial days, one day at a time, etc.).

The following reasons qualify for Family and Medical Leave:

- For the employee’s own qualifying serious health condition\* that makes the employee unable to perform the functions of the employee’s job, including incapacity due to pregnancy and for prenatal medical care.
- To care for the employee’s qualified family member\*\* with a serious health condition\* including incapacity due to pregnancy and for prenatal medical care.
  - Note: FMLA approval ends when the family member’s condition no longer requires the employee to provide care. It is the employee’s responsibility to notify the FMLA Office and the employee’s supervisor when such change occurs.
- The birth of a child or placement of a child for adoption or foster care to the employee:
  - The first year care of an employee’s child and/or within one year of placement of child with employee.
  - To bond with a child (Block FMLA leave must be taken within one year of the child’s birth or placement).

- Any period of incapacity or treatment for a chronic serious health condition\* of an employee (or qualified family member that requires the employee’s care) which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity (Intermittent FMLA).
- Military Family Leave Entitlements – Eligible employees whose spouse, son, daughter or parent is a member of the Armed Forces (including the National Guard and Reserves) and on covered active duty or called to covered active duty status may use their 12-week (60 days) leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. FMLA can also be provided to spend up to 15 calendar days with a military member who is on rest and recuperation leave.
- FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 workweeks of leave to care for a covered service member during a single 12-month period. 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 outpatient status, or is otherwise on the temporary 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. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA–qualifying reason/s during the single 12-month period.

\*The FMLA definitions of “serious injury or illness” for current service members and veterans are distinct from the FMLA definition of “serious health condition”. (Contact the FMLA Office for details.)

**\*SERIOUS HEALTH CONDITION:**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either:

- Any period of incapacity or treatment connected with inpatient care (an overnight stay) in a hospital, hospice, or residential medical care facility; or
- A period of incapacity lasting more than three consecutive, full calendar days, and requiring ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication); or
- Any period of incapacity related to a pregnancy or prenatal care; or
- Any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective, but which requires the continuing supervision of a health care provider (Alzheimer’s Syndrome, stroke, terminal diseases); or
- Any period of incapacity or treatment for a chronic serious health condition; or



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 33 N. Zack Hinton Parkway  
 McDonough, GA 30253  
 770.957.6601



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- Any absences to receive multiple treatments for, by, or on referral from a health care provider for a condition that would likely result in incapacity for three or more days if left untreated (chemotherapy, physical therapy, dialysis).
  - NOTE: FMLA does not apply to routine medical examinations, such as a physical, or common medical conditions, such as an upset stomach, unless complications develop.

A Chronic Serious Health Condition is defined as one that (1) requires “periodic visits” (at least twice a year) for treatment by a health care provider or nurse under the supervision of a health care provider, (2) recurs over an extended period of time, and (3) may cause episodic rather than continuing periods of incapacity.

NOTE: If your leave is due to something other than the previously listed condition/reasons, your request must also be processed through our Human Resource Services-FMLA Office.

**\*\* QUALIFYING FAMILY MEMBER:**

The form “Employee Statement of Family Relationship for FMLA Leave” must be completed by the employee and included in the FMLA application submitted to the FMLA Office. The term “qualifying family member” means:

- Employee’s spouse.
- Child (biological, adopted, stepchild, foster child, a legal ward, or a child of a person standing in loco parentis) of the employee.
  - Child must be under the age of 18.
  - If age 18 and older the adult son or daughter must:
    - Have a disability as defined by the Americans with Disabilities Act (ADA) at the time the leave is to commence,
    - Be incapable of self-care due to that disability;
    - Have a serious health condition; and,
    - Is in need of care due to the serious health condition.

It is only when all four requirements are met that an eligible employee is entitled to FMLA–protected leave to care for his or her adult son or daughter.

NOTE: If child is age 18 years or older, the form “Adult Child Disability Medical Inquiry for FMLA” must be completed by the child’s health care provider and included in the FMLA application submitted to the FMLA Office. The form can be obtained by contacting the FMLA Office (770.957.5107) or email [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us)

- Parent (biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child). This term does not include parents “in law.”
- For purposes of military caregiver leave under FMLA, next of kin of a covered service member means the nearest blood relative other than the covered service member’s spouse, parent, son or daughter in the following order of priority: Blood relatives who have been granted legal custody of the covered service



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member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

√ Note: In-laws, grandparents, siblings and other extended family members are NOT covered by FMLA.

**WHEN DO I NEED TO REQUEST FMLA?** If you meet one of the aforementioned qualifications, you may apply for FMLA. If you expect to be out of work for 10 days or longer, you **must** apply for FMLA. If you incur 10 days of leave (cumulative and/or consecutive), you **must** apply for FMLA. A 30-day notice of pending leave is required when the leave is foreseeable. In any event, written notice in the form of this application should be submitted by you as soon as possible. Failure to submit a completed FMLA application (including supporting documentation such as medical certification) within 15 days of absence could result in automatic denial of FMLA and possible employment action.

NOTE: Excessive absences (consecutive and/or cumulative) not covered by FMLA can result in an attendance/performance issue and possible employment action.

**WHAT ARE THE STEPS TO BE TAKEN?**

- 1) Consult with your health care provider about the number of days you must be absent. A signed statement from the health care provider is required for illness or birth of a child.
- 2) Complete the FMLA application. To apply for FMLA, click on the following link: [Request FMLA Leave](#) If you have any questions or unable to access the link, please contact the FMLA Office via phone (770.957.5107) or email [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us)
- 3) Provide (upon request from the FMLA Office) certification updates and anticipated return to work date and supporting documentation.
- 4) Discuss the leave with your principal or local supervisor.
- 5) The department/school protocol concerning and including reporting out must always be followed.
- 6) It is the employee’s responsibility to ensure the supervisor/principal and leave-entry person are aware of leave dates, details, and return to work date.
- 7) Prior to returning to active employment, you must provide written certification from your physician regarding your release to return to work. Your return to work is dependent upon receipt of this documentation. The FMLA Office will provide to you a copy of your job description for your treating physician to review and complete the bottom portion concerning release to return to work. You should provide notification of at least two workdays prior to the date you intend to report for work.

It is the employee's responsibility to ensure the FMLA application guidelines are followed and the completed FMLA application form is submitted to the FMLA Office.

Any questions or requests for additional forms should be emailed to [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) or contact the FMLA office at 770.957.5107.

**HOW MUCH LEAVE CAN BE TAKEN?** Under FMLA, the maximum is 60 days in a 12-month period. The 60 days in a 12-month period will be measured from the first date FMLA leave is used. An employee can apply and be approved for FMLA due to multiple reasons; however, the combination for all reasons cannot exceed 60 FMLA days per FMLA year. (The special FMLA Leave entitlement to care for a covered military service member is an exception.)

If the FMLA leave is for a serious health condition, the dates provided by the health care provider will be used to approve FMLA leave (up to 60 FMLA days per FMLA Year). You cannot request additional time unless ordered by your health care provider. However, for the birth of a child, you may request additional time for the care of your child during his/her first year (or bonding time). Recovery plus bonding time cannot exceed 60 FMLA days per FMLA Year.

- Time off due to a Workers' Compensation injury will be counted as FMLA time (not to exceed 60 FMLA days per FMLA Year).
- **Please remember that 60 days per FMLA Year is the maximum allowed.**

Note: (The special FMLA Leave entitlement to care for a covered military service member is an exception.)

If the employee and the employee's spouse work for the school system, each is entitled to 60 days for their own illness or the illness of a child. However, the 60 days must be split between them if it is to care for a parent, or for the first year care or bonding time with a newborn child or the newly placed child with the employees (adoption or foster care).

**DO I TAKE PAID LEAVE OR UNPAID LEAVE?** The employee is required (during FMLA) to use all paid leave, (sick/personal and/or vacation) available to him/her. At the time paid leave is exhausted, Leave-Without-Pay (LWOP) will be entered. Please keep in mind the cut off dates for payroll. As an example, it is possible that an employee will begin LWOP on February 10<sup>th</sup> but will not see the effects of it until the March paycheck. For each day that you do not have paid leave, your pay will be reduced by your daily rate of pay.

Note: Reference provisions under FFCRA for exception.

**INTERMITTENT FMLA IS APPROVED...WHAT MUST I DO NEXT?** Upon approval of Intermittent FMLA:

- You must always follow your school/department’s protocol concerning reporting your absence from work.
- When possible, you should provide to your principal/supervisor advance notice of any absences (partial days, etc.) and coordinate your return to work date (in advance) with your principal/supervisor.
- In order for your intermittent leave to be covered by FMLA, you must notify the Human Resource Services-FMLA Office of leave dates that are related to the FMLA approved reason. Notification can be done via email to [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) or via note faxed to the FMLA office (770.954.9202) or via note sent through interoffice school mail addressed to Human Resource Services-FMLA Office, District Office. Please provide your name and employee number and the date leave is taken due to the FMLA approved reason. Notification should be made within 15 days of the leave/absence. Failure to provide notification within the designated time will result in automatic denial of FMLA coverage for that specific leave/absence.

**DO MY BENEFITS CONTINUE UNDER FMLA LEAVE?** When you are receiving a paycheck with sufficient funds, benefit deductions continue. When paid leave is exhausted and the funds are not sufficient, you are required to pay your benefit premiums to avoid loss of coverage. An invoice will be sent to you providing instructions, the amount owed, and the payment due date. If you fail to receive an invoice, please contact the Benefits Office (770.957.6601) for guidance. **Note: Failure to remit timely premiums will result in immediate loss of coverage. It is the employee’s responsibility to ensure payments are received timely.**

**WHAT IF I HAVE A SECONDARY JOB WITH HENRY COUNTY SCHOOLS?** Employees on FMLA who have a full time job with Henry County Schools and work a secondary job with Henry County Schools (such as “After School Enrichment Program”) are required to:

- Notify their secondary job supervisor of their FMLA status; and,
- Notify the FMLA Office of their secondary job with Henry County Schools.

**WHAT IF I NEED TO EXTEND MY FMLA?** If the period of leave needs to be extended beyond the original approved period (within the 60 FMLA day maximum), the employee should notify their principal/supervisor as soon as possible and request said extension in writing prior to the last day of approved leave. Employees should direct the request to the Human Resource Services-FMLA Office for approval. A medical update from the treating physician/health-care-provider must be provided if leave is for a serious health condition. Medical documentation must be kept current during leave.

**WHAT IF MY LEAVE LASTS BEYOND THE 60 FMLA DAY MAXIMUM?** The FMLA provided attendance, job and benefit protection are exhausted with the 60 FMLA day maximum. If you are not able to return to work prior to or on the first scheduled day immediately following the 60<sup>th</sup>



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approved FMLA day and the reason is due to your (the employee’s) serious health condition, you may qualify for Approved Extended Leave (AEL). With the appropriate medical documentation, AEL will enable you to continue your benefits for up to one year. Medical documentation must be kept current during leave. Contact the Benefits Office (770.957.6601) or email [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) for more details. **Note: Failure to remit timely premiums will result in immediate loss of coverage and possible termination of leave.**

**If your leave extends beyond the 60-day FMLA maximum, you do not have return-to-work rights under FMLA.**

**If an absence extends beyond the 60 FMLA day maximum for each FMLA 12-month period, the position may be posted and you may be replaced by a permanent employee. Upon release to return to work by your treating physician, you may apply for re-employment through the Human Resource Services Department.**

Certified employees who are unable to return to work prior to or on the first scheduled workday following the 60<sup>th</sup> FMLA day may or may not be recommended for a contract for the next school year.

**WHAT DO I NEED TO DO TO RETURN FROM FMLA?** If the leave was due to a serious health condition of the employee, written certification from the treating health care provider addressing release to return to work (listing any specific restrictions and/or request for accommodations described in detail) must be submitted to the Human Resource Services-FMLA Office. The employee’s return to work is dependent upon receipt of this documentation. This must be submitted at least two workdays prior to or on the first day of return to work.

Any restrictions and/or requests for accommodations must be reviewed to determine by the Restrictions Committee if work is available to reasonably accommodate. If no work is available to reasonably accommodate, approved FMLA will continue (up to 60 FMLA days per FMLA Year) and possibly Approved Extended Leave (AEL) as a means of accommodation.

The employee must always coordinate/confirm return to work (in advance) with their principal/supervisor.

**RESTRICTIONS AND/OR REQUEST FOR ACCOMMODATIONS:** Employees are expected to perform the full duties of their job until medical documentation signed by the health care provider is submitted to the employee’s principal/supervisor or FMLA Office. If restrictions, accommodations or medical apparatus (cane, splint, brace, etc.) are required while performing job duties, the employee must provide medical



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documentation signed by the health-care-provider listing any restrictions, accommodations or medical apparatus described in detail.

The medical documentation listing the specific restrictions/request for accommodations described in detail must be submitted to Human Resource Services-FMLA Office via email to [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) or faxed to 770.954.9202 for review by the Restrictions Committee to determine if work is available to reasonably accommodate.

- If there is no work available to reasonably accommodate, the employee may be placed on FMLA (not to exceed the 60 FMLA day maximum per FMLA Year) as a means of reasonable accommodation.
- If the leave extends beyond the 60 FMLA day maximum, Approved Extended Leave (AEL) will be considered if applicable.

**Application for FMLA (should be provided to the FMLA Office via the following link:**

<http://request.efmla.com?A1=35807c15792H016>

Upon receipt of the FMLA request, a notification of determination will be sent to the employee.

NOTE: To avoid pay discrepancies, please ensure the appropriate leave forms are completed and submitted to your leave entry person at your work location as soon as possible. Upon return to work, the employee should notify the FMLA Office of the return to work date. This can be done by telephone (770.957.5107) or email to [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) or a note sent via school mail to the FMLA Office.

If you have any questions regarding FMLA, please contact the Human Resource Services-FMLA Office at 770.957.5107 or email [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us).



## Families First Coronavirus Response Act (FFCRA) Emergency Paid Sick Leave Act (EPSLA) Emergency Family and Medical Leave Expansion Act (EFMLEA)

Currently, these provisions will apply from the effective date (April 1, 2020) through December 31, 2020.

Eligibility for paid sick leave or expanded family and medical leave for specified reasons related to COVID-19:

- All employees that meet qualifying reasons requirements are entitled to paid sick leave provided under the EPSLA.
- All employees that meet the qualifying reasons requirements and have been employed with Henry County Schools for at least 30 calendar days immediately prior to the day that the employee's leave would begin are entitled to the leave provided under the EFMLEA.

For reasons #1-3- i.e. an employee's own illness or quarantine – two weeks (up to 80 hours) of paid leave at the employee's regular rate of pay not to exceed \$511/day or a maximum of \$5,110.

1	The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19
2	The employee has been advised by a health care provider to self-quarantine because of COVID-19
3	The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis

For reasons #4-6 –i.e. caring for others or school/day care closures –two weeks (up to 80 hours) of paid leave at 2/3 the employee's regular rate of pay up to \$200/day or a maximum of \$2,000.

4	The employee is caring for an individual subject or advised to quarantine or self-isolate
5	The employee is caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precautions
6	The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury

For reason #5 – School/day care closures, employees may be entitled to up to an additional 10 weeks of EFMLEA (i.e. expanded family and medical leave



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paid at 2/3 the employee’s regular rate of pay up to \$200/day or \$10,000 maximum).

For reasons #1-4 and #6, employees may be entitled to an additional 10 weeks of unpaid or paid based on accrued paid sick leave FMLA leave (under the law enacted in 1993).

Leave taken under FFCRA will count toward the 12 weeks/60 days per FMLA Year.

Please contact the Henry County Schools FMLA Office (770.957.5107) or via email [FMLA@henry.k12.ga.us](mailto:FMLA@henry.k12.ga.us) for assistance.

Please reference the Families First Coronavirus Response Act (FFCRA) application package for more details.

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**LINKS:**

FMLA application package:  
**[Request FMLA Leave](http://request.efmla.com?A1=35807c15792H016)**  
<http://request.efmla.com?A1=35807c15792H016>

**FFCRA Application Package**

Form: “**Adult Child Disability Medical Inquiry for FMLA**”