

## Leave of Absence Frequently Asked Questions

### **Important Update:**

Effective April 8, 2022, all eligible employees requesting leave of absence on or after April 8, 2022, are **required** to submit their request electronically through the MSCS Employee Portal.

### **When should I apply for a Leave of Absence?**

If you are absent or expecting to be absent for ten (10) consecutive workdays and/or more, you are required to file a Leave of Absence via the MSCS Employee Portal.

Consecutive absences of nine (9) days or less will be handled by the Administrator/Supervisor at your assigned work location. You may be required to submit documentation supporting your absences. The statement should only indicate the beginning and ending dates of care by the attending physician. The statement should not include any health information (diagnosis). Failure to provide supporting documentation for any absences may result in further disciplinary action.

### **What is the Family Medical Leave Act (FMLA)?**

FMLA is leave entitlement for reasonable, job-protected leave for specified family and or medical reasons. Under the federal Family and Medical Leave Act (FMLA) eligible employees have a right for up to 12 weeks of job-protected leave per 12-month period for the following reasons:

- For incapacity due to pregnancy, prenatal care, or childbirth
- To care for the employee's child after birth, placement for adoption, foster care, and bonding
- To care for the employee's spouse, son or daughter, or parent with a serious health condition
- For a serious health condition that makes the employee unable to perform the employee's job

### **What is my entitlement under FMLA?**

If you are an "eligible" employee, you are entitled up to twelve (12) work weeks of leave in a 12-month period for one or more of the following reasons:

- for the birth of a son or daughter, and to care for a newborn child
- to bond with a child (leave must be taken within 1 year of the child's birth or placement)
- or the placement with the employee of a child for adoption or foster care, and to care for the newly placed child

- to care for an immediate family member (spouse, child, or parent) with a serious health condition; and
- if the employee is unable to work due to a serious health condition

Spouses employed by the district may be limited to a combined total of 12 work weeks of family leave for the following reasons:

- birth and care of a child
- to bond with a child
- for placement of a child for adoption or foster care, and to care for the newly placed child; and
- to care for an employee's parent who has a serious health condition

### **What is the definition of a serious health condition?**

A “serious health condition” is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. The “continuing treatment” for a serious health condition that qualifies for FMLA leave is:

- A period of incapacity of more than three consecutive full calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment
- Any period of incapacity related to pregnancy or for prenatal care
- Any period of incapacity or treatment for a chronic serious health condition
- A period of incapacity for permanent or long-term conditions for which treatment may not be effective
- Any period of incapacity to receive multiple treatments (including recovery from treatments for restorative surgery, or for a condition which would likely result in incapacity of more than three consecutive full calendar days absent for medical treatment).

### **Who is eligible to request FMLA leave?**

Employees are eligible to take FMLA leave if they have worked for the district for at least one (1) year and have 1,250 hours of service in the previous 12 months.

Generally, part-time employees are not eligible for FMLA leave due to the 1,250 hours eligibility requirement. Therefore, requests for time off work for part-time employees should be addressed with the supervisor/manager and approval may be granted at the discretion of the supervisor/manager.

Part-time employees may qualify for FMLA leave by working overtime, additional work assignments, etc. If this applies to you, please contact a Leave Administrator to confirm additional hours worked and the possibility of FMLA eligibility.

### **What if I am not eligible for FMLA leave?**

If you do not meet the eligibility requirements for FMLA and expect to be off work for 10 consecutive days or more for your own illness or to care for an immediate family member, leave may be granted under the District's Sick Leave Policy #4026.

### **Can the District deny my FMLA leave request?**

The following reasons would constitute denial of a leave:

- If you do not meet the eligibility requirements
- Employees who give unequivocal notice that they do not intend to return to work lose their entitlement to FMLA leave
- Employees who are unable to return to work and have exhausted their 12 weeks of FMLA leave in the designated "12-month period" no longer have FMLA protections of leave or job restoration

### **What is considered reasonable notice before taking FMLA leave?**

When the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, an employee must give at least 30 days notice. If 30 days notice is not possible, an employee is required to provide notice "as soon as practicable."

**Note to Teachers:** Per (T.C.A. 49-5-710), Teachers requesting to use sick leave as Maternity or Paternity must submit a statement from the attending physician no later than the fifth month of pregnancy.

### **What happens if the 30-day notice is not provided?**

Where leave is foreseeable and there is no reasonable excuse for not giving 30 days' notice, the employer can deny FMLA leave, and presumably apply its other policies, for up to 30 days after the notice is provided.

### **What is a "rolling" 12-month period?**

The rolling 12-month period is measured backwards beginning with the date the employee uses FMLA leave.

Example: An employee takes time off work due to the birth of a child in May. The leave period taken is 12 weeks. In November, the employee is scheduled for surgery. The request for leave in November will not be counted towards FMLA due to the 12 weeks entitlement previously used during the leave in May.

### **Can leave be taken to care for children of any age?**

FMLA leave is only available to care for a child under the age of 18 years or older with a disability where the child is unable to perform activities of daily living without assistance. An

eligible employee covered by Military Family Leave can take the leave to care for spouse, son, daughter, parent, or next of kin.

### **Can leave for childbirth or adoption be taken at any time?**

Leave must be taken within 12 months after birth or placement for adoption or foster care. In many circumstances, however, the leave may start before the birth or placement for adoption, such as leave needed for pre-natal care or for home studies in connection with an adoption.

### **May I take additional time off work to bond with my newborn?**

Yes. FMLA eligible employees can take a combined total of 4 months (16 weeks) for Maternity/Paternity Leave. This includes bonding with the newly born or newly placed child. Employees must attach the Parenting Bonding request form via Employee Portal indicating the requested return to work date. The request for bonding time must be submitted with the initial leave request or within the first year of the child's birth or newly placed child.

### **How will I be compensated during my approved leave of absence?**

Employees are required to request the use of personal days at the beginning of the approved leave (if applicable). If you have available sick days to cover your approved leave period, substitution of vacations days is not permitted. However, accrued sick and vacation days will be exhausted before unpaid leave can be taken.

If a recognized holiday falls during an employee's paid absence, holiday pay will be received. Employees eligible for paid holidays must be in paid status (available sick/vacation/personal) the last scheduled workday preceding the holiday and the first scheduled workday following the holiday.

#### **\*Note to all employees (excluding hourly employees):**

Once you move into an unpaid status, the system calculates a pro-rated contract amount based on the days worked from the first workday of the contract year to the end date. This contract amount is computed by multiplying the daily rate (annual salary/number of workdays in a full year) by the days worked.

The pro-rated contract amount is then compared to the paid to date amount and any balance due is paid on the next available pay date.

If any portion of your Leave of Absence is unpaid, upon your return to work your salary will be recalculated according to the number of scheduled workdays and pay periods remaining in the school year.

### **Am I eligible for Paid Parenting Leave and how will I be compensated?**

Effective May 11, 2023, Chapter 399 of the Public Acts of 2023, now codified at T.C.A. 8-50-814, mandates local education agencies (LEAs) grant licensed employees **six paid workweeks** after a birth or stillbirth of the employee's child or employee's adoption of a newly placed minor child.

A teacher, principal, supervisor, or other individual required by law to hold a valid license of qualification for employment in the district who (1) has been employed fulltime with a Tennessee local education agency for at least twelve (12) consecutive months (2) during the 12 consecutive months of fulltime employment, the employee is required to hold a valid license of qualification for the position shall be granted up to six (6) weeks of paid leave for the birth (including still birth) of the employee's child or adoption of a newly placed minor child in accordance with state law. Leave granted under this section must be used within twelve (12) months of the qualifying birth or adoption.

An eligible employee may receive no more than six (6) work weeks of paid leave within a twelve-month period.

Teachers and other certified employees shall not be required to use their sick, annual, or other leave; however, paid parental leave as provided by T.C.A. 8-50-814 shall count towards the employee's use of leave under the Federal Family and Medical Leave Act and T.C.A. 4-21-408.

Paid leave under this section shall be provided at one hundred percent (100%) of the employee's salary.

### **If an employee is teaching on a permit, rather than an educator license, is the employee eligible for paid Parenting leave under Chapter 399?**

No, a permit is a temporary emergency credential and is not considered a valid license of qualification for employment for purposes of the law. An employee in a teaching position must hold an educator license to be eligible for paid leave.

### **Where can I find leave of absence documentation?**

All Leave of Absence documents are available in the MSCS Employee Portal under the documents and links tab. Please carefully read and review all important information and required documents before submitting your request.

### **How do I submit a leave of absence request?**

All leave requests must be submitted via the MSCS Employee Portal effective 4/11/2022. The required documents must be attached to the leave request. Applicable documentation varies according to the leave type being requested.

### **Can someone submit a leave of absence request on my behalf?**

Employees are required to submit their own leave request via the MSCS Employee Portal. Exceptions may be granted in cases of a medical emergency such as an employee admitted into ICU or fully incapacitated. Under these circumstances, the request may be submitted on your behalf.

### **What is the processing time for new leave of absence requests?**

The designated Leave Administrator will notify the employee of FMLA eligibility within five (5) business days of the employee requesting leave. An Approval notification will be sent to employees via their MSCS email address. In addition, employees should frequently check the employee portal and their MSCS email for status updates.

### **How do I submit a leave of absence extension request?**

Employees are required to attach the applicable updated Certificate of Health Care Provider Form completed by the attending physician via the Employee Portal. The request for an extension must be submitted five (5) days prior to the expiration of the initial leave request. The processing time is 5 business days after the appropriate documents are submitted. Please log into the MSCS Employee Portal frequently to check for status updates.

Per Board Policy #4026-Sick leave, the total period of leave will not exceed one (1) year. FMLA provides up to twelve (12) weeks of job-protected leave. Additional leave beyond twelve (12) weeks may be granted; however, the absences will be considered non-FMLA.

Exceptions to the one (1) year restriction may apply for leaves granted as a reasonable accommodation under the Americans with Disabilities Act (ADA).

### **Will my Supervisor/Manager be notified?**

Yes. Supervisors/managers will receive notification via email of the initial leave approval, extension approval, and reinstatement approval.

### **What paperwork is required before returning to work?**

Employees are required to submit the reinstatement request and attach a physician's letter of clearance via the MSCS Employee Portal within five (5) business days prior to the end of the approved leave of absence. Failure to comply may result in a delay in the processing of the leave clearance approval which may also delay the processing of the employee's paycheck.

Employees who have been released to return to work earlier than anticipated must attach a statement from the attending physician indicating the revised return to work date. Employees that have been released by the attending physician to return to work with restrictions must attach a statement from the attending physician identifying the limitations and the timeframe (specific dates) in which limitations are effective.

After the reinstatement request has been approved by the assigned Leave Administrator, notification will be sent to the employee and supervisor/manager via email.

If leave is taken more than five (5) weeks prior to the end of the semester, and the return to employment is within three (3) weeks of the ending semester, the teacher will not be able to return until the first day of the next semester.

If the leave is taken five (5) weeks prior to the end of the semester, and the return of employment is within two (2) weeks of the ending semester, the teacher will not be able to return until the first day of the next semester.

### **What will happen to my health insurance while I am on a paid leave of absence?**

While on an approved paid leave of absence, the insurance premiums for medical, dental, vision, basic life, flexible spending account, Minnesota life (supplemental life) and MetLife (short term and long-term disability) insurance will continue to be deducted from your paycheck.

### **What will happen to my health insurance while I am on an unpaid leave of absence?**

While on an approved unpaid leave of absence, you will be responsible for paying missed insurance premiums for medical, dental, vision, basic life, flexible spending account, Minnesota life (supplemental life) and MetLife (short term and long-term disability).

Each voluntary benefit is administered by the corresponding insurance carrier. You will be required to make payments for voluntary premiums directly to the outside carriers. The carriers include AFLAC, American Fidelity, NEA, NTA, etc.

### **How do I make payments while out on leave of absence?**

If you are on an approved leave of absence and go into an unpaid status, you will be responsible for submitting the missed premium payments. It is your responsibility to ensure your payments are submitted to Benefits in a timely manner every pay period.

ATTN: Office of Employee Benefits, Room 108  
160 S. Hollywood St.

Memphis, TN 38112

Personal check cashier's check or money order should be made payable to Memphis-Shelby County Schools. Failure to submit your payments may result in the termination of the insurance coverage due to non-payment.

You will have the option to re-elect health insurance coverage within thirty (30) days of your return from the approved leave of absence. If you miss the thirty (30) day window, you will have the opportunity to re-elect coverage during the next health insurance open enrollment period.

If coverage for the Basic/AD&D life insurance coverage is cancelled due to non-payment, Employees must submit an Evidence of Insurability (EOI) to Securian for re-enrollment approval in the Basic and supplemental Group Life Insurance. Please visit Securian's webpage via: [claimsclientservice@securain.com](mailto:claimsclientservice@securain.com) or 1-800-922-7772.

**Who should I contact if I am unable to access the MSCS Employee Portal or if I need to reset my password?**

Please contact the MSCS Help Desk at 901-416-2700.

**Who should I contact if I have additional leave of absence questions?**

Please visit our MSCS Benefits webpage via the MSCS website [here](#)

You may also contact the HR/Benefits office directly via email or phone call at: [benefits@scsk12.org](mailto:benefits@scsk12.org) or 416-5304.