

ADMINISTRATIVE POLICY

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FAMILY AND MEDICAL LEAVE ACT (FMLA)

The purpose of this policy is to inform all employees of their rights under the Family and Medical Leave Act (FMLA), and to establish the relationship of FMLA leave to other leave(s) to which employees are entitled.

A. Provisions:

1. Per FMLA regulations an employee must have been employed by CMCSS for 12 months, working at least 1,250 hours during the 12-month period immediately preceding FMLA leave.
2. Amount of Leave. FMLA establishes up to 12-weeks unpaid leave for eligible employees due to listed below purposes in **a, b, c, & d** or 26-weeks of leave for eligible employees due to the purpose in **e** listed below. Qualifying Exigency leave (purpose **f** listed below) is permitted up to seven days for short-notice leave, one-day for military events/activities, rest and recuperation leave permitted up to ten days.
3. Purposes of Leave. FMLA leave can be taken:
 - a) For the birth of a child.
 - b) For the placement of a child for adoption or foster care.
 - c) To care for a spouse, child, or parent with a serious health condition.
 - d) Because of a serious health condition that causes the employee to be unable to perform the essential functions of his or her job.
 - e) Because of the need to be a caregiver for a service member or veteran, due to injury or illness incurred in the line of duty within five years of serving in the military. 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 up to 6 months of leave during a single 12-month period on a per-covered service member, per-injury basis.
 - f) Because of a “qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent is a member of any branch of the military, including the National Guard or Reserves, and who was deployed or called to active duty in a foreign country.

For an activity to qualify as exigency, it must fall within one of the following categories:

- Short notice deployment (military member receives seven or less days notice)
- Military events, related activities, financial & legal arrangements, counseling, temporary childcare arrangements, school activities
- Rest and recuperation (military member on a temporary rest & recuperation leave)
- Post deployment activities

4. Spouse Rule. Spouses who are eligible for FMLA leave are limited to a combined total of 12 weeks of leave if the leave is taken for the birth of a child, or for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.
5. Period for Taking Leave. The 12-week/26-week FMLA leave may be taken during the twelve-month period; this is measured by using the 12 months forward measurement. Leave is measured from the date an employee's first FMLA begins. It may be taken on an intermittent or reduced leave (part-time) basis. However, if FMLA leave is taken on an intermittent or reduced leave basis, the employee may be transferred temporarily to an available alternative position that better accommodates recurring periods of leave. In addition, if FMLA leave is taken for the birth of a child or placement of a child for adoption or foster care, it must be taken at one time - and it must be concluded within one year of the birth or placement. An eligible employee who is a caregiver for a service member is entitled to 26 weeks of leave in a single 12-month period to care for the service member.
6. Employee Notice. In order to take FMLA leave, the employee must provide his or her immediate supervisor and the Chief Human Resources Officer at least 30 days advanced notice if the need for the leave is foreseeable. If the 30 day notice cannot be given because of an unexpected change in circumstances, a medical emergency, or the like, notice must be given with as much lead time as possible, normally within one or two working days of when the employee becomes aware of the need for the leave - except in extraordinary circumstance.
7. Medical Certification before Leave. If FMLA leave is requested due to a seriously ill spouse, child, service member or parent; or because of the employee's own serious health condition, the employee must provide the immediate supervisor a medical certification from the treating healthcare provider. Failure to provide such notification is sufficient grounds to deny the request for leave. If documentation from the healthcare provider is not sufficient enough to document necessity for FMLA leave, CMCSS may require completion of the WH-380-E or WH-380-F forms provided by the Department of Labor.
8. Military Exigency Leave Certification. A copy of the military member's active duty orders or rest and recuperation orders and a statement from the employee about the nature and details of the specific exigency is required. The employee must provide certification within 15 days absent unusual circumstances.
9. Military Caregiver Leave Certification. If FMLA is requested due to need to care for a covered service member, a medical certification of service member's serious injury or illness must be completed by healthcare provider. The employee must provide certification within 15 days absent unusual circumstances. When a DOD health care provider has determined that illness or injury is serious enough to warrant the immediate presence of family member, a copy of the invitational travel order (ITO) or invitational travel authorization (ITA) or a copy medical certification is required.
10. Substitution of Paid Leave. FMLA leave is unpaid. However, the employee must substitute any paid vacation, personal leave, sick leave, or On the Job Injury (OJI) time which has been earned or accrued in place of the FMLA leave until this earned or accrued leave has been fully used. Accordingly, the paid leave and the FMLA leave will run concurrently. Any remaining FMLA leave will be unpaid. Employees using FMLA for maternity leave purposes will use accumulated sick leave during the period of the mother's physical disability only, as determined by a physician. Employees using FMLA for parental leave purposes may use thirty (30) days of accumulated sick leave for the birth and care of a newborn child.

11. Group Health Insurance. During the period of FMLA leave, group health insurance coverage will remain in effect. If paid leave is substituted as discussed above, the employee's portion of the premium will be paid by payroll deduction as it normally is. If all or part of the leave is unpaid, the employee must pay the entire premium at the same time that it would be made by payroll deduction. If the employee's premium is not paid in a timely manner, group insurance coverage may lapse during FMLA leave. If the employee does not return to work after FMLA leave, CMCSS reserves the right to recover all group health insurance coverage, depending upon the reason the employee failed to return to work.

12. Medical Certification before Return from Leave. If the employee has been on FMLA leave because of his or her own serious health condition, a medical statement from the treating healthcare provider stating that he or she is able to resume work may be requested by the immediate supervisor. Failure to provide such a statement if requested may result in the denial of the employee's return to work.

13. Return from Leave. When the employee returns from FMLA leave, he or she will be given the same or an equivalent job.

14. The Tennessee Maternity Leave Act also entitles employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing the infant where applicable (such to be hereinafter referred to as "leave"). With regard to adoption, the four-month period begins at the time an employee receives custody of the child. To be eligible for this leave, an employee must have given her/his immediate supervisor and the Chief Human Resources Officer at least three months advance notice of his/her anticipated date of departure, the length of the maternity/parental leave, and his/her intention to return to full-time employment after the maternity leave has ended. Employees who are prevented from giving three months advanced notice because of a medical emergency, or notice of adoption was received less than three months in advance would not forfeit their rights under the Tennessee Maternity Leave Act.

Sick leave will be used concurrently with maternity leave, not to exceed the duration of mother's physical disability. Tennessee Maternity Leave Act leave and sick leave will run concurrently. Sick leave may be used by employees for parental leave for a period not to exceed thirty (30) days of accumulated sick leave for the birth and care of a newborn child. Such sick leave use will run concurrently with parental leave. In accordance with Tennessee Code Annotated, an employee may use thirty (30) days of accumulated sick leave for adoption of a child. If both adoptive parents are employed with CMCSS, only one (1) parent is entitled to use paid sick leave. Written verification from an adoption agency, or other entity handling the adoption, will be required.

15. A teacher that is on a planned extended leave should provide lesson plans for the expected duration of the absence. If a teacher is on paid sick leave and able to support the classroom from home, a Principal may request certain teaching duties be performed.

Associated Documents: The Family and Medical Leave Act of 1993, Federal Regulations part 825
Tennessee Maternity Leave Act, TCA 4-21-408
Employee Handbook
Maternity/Parental Leave [HUM-A031](#)
Leave of Absence/Family Medical Leave Act [HUM-F015](#)
CMCSS Request for Leave of Absence/FMLA [HUM-F016](#)
Extension of LOA/FMLA [HUM-F031](#)

Certification of Health Care Provider for Employee's Serious Health Condition [WH-380-E](#)
Certification of Health Care Provider for Family Member's Serious Health Condition [WH-380-F](#)

Revision History:

<u>Date:</u>	<u>Rev.</u>	<u>Description of Revision:</u>
4/26/05		Initial Release
9/12/05	A	Add sentence to 8 and rewrite 12.
11/08/07	B	Change WC to OJI in third sentence and may to will in sixth sentence of no. 8, update last paragraph.
3/17/08	C	Add e & f under 3, add 26 weeks, add last sentence under 5 and include service member in policy
1/19/09	D	Add Qualifying Exigency leave to 2, add during a single 12-month period on a per-covered service member, per-injury basis to e, add qualifications of exigency leave to f, add new 8 & 9 and renumber.
6/0/09	E	Clarify that the employee on active duty status is in the National Guard or Reserves in support of a contingency operation (not active duty) to qualify for "qualifying exigencies" in 3.f.
11/23/09	F	Revision due to National Defense Authorization Act.
1/18/10	G	Add "In accordance with Tennessee Code Annotated, an employee may use thirty (30) days of accumulated sick leave for adoption of a child. If both adoptive parents are employed with CMCSS, only one (1) parent is entitled to use paid sick leave. Written verification for an adoption agency, or other entity handling the adoption, will be required" to last paragraph.
3/28/11	H	In A 2, change recuperation leave permitted up to ten days instead of five days.
6/24/13	I	Correct #1. to Per FMLA regulations; Add unpaid to #2; Add to #7. Additional Department of Labor forms that may be required; Addition of #15.A teacher that is on a planned extended leave should provide lesson plans for the expected duration of the absence. If a teacher is on paid sick leave and able to support the classroom from home, a Principal may request certain teaching duties be performed.; Deletion of Associated Document Memorandum of Agreement; Add HUM-F015, F016, F031 and WH-389-E, WH-380-F; update logo
11/9/15	J	Added "paternity" clauses and changed husband and wife to spouse.
2/22/16	K	Changed paternity to parental throughout.

***** End of Policy *****