

AUGUSTA COUNTY SCHOOL BOARD

*18 Government Center Lane
Verona, VA 24482*

TO: Augusta County Schools Employee

SUBJECT: Family and Medical Leave

Attached is information concerning the *Family and Medical Leave Act of 1993 (FMLA)*. The Augusta County Schools Administrative Manual, Regulation 5.330, provides detailed information on leaves and absences. The manual is available at www.augusta.k12.va.us and is located in each school office and library. A copy of the policy concerning FMLA leave is included in this packet.

Employees are eligible for FMLA leave if they have at least twelve months of service and have worked at least 1250 hours in the twelve months preceding the commencement of leave.

Various medical conditions are appropriate for FMLA, such as childbirth, surgery recovery, or continuing treatment for a chronic or long-term health condition. Short-term conditions for which treatment and recovery are brief would not be valid reasons for requesting leave under FMLA.

If FMLA leave is appropriate for you, please complete the Family and Medical Leave Request Form, FMLA101. Also complete the top portion (Section I) of the Medical Certification Form, FMLA101A. Include the employee's name and department, or if applicable, the patient's name and relationship to the employee. The attending physician must complete the remainder.

It is the responsibility of the employee to submit the completed forms to the Finance Department. Employees must provide at least thirty days notice of the need for Family and Medical Leave. If the need for leave is unforeseeable, notice needs to be given as soon as practicable. Completed forms should be returned to:

**Finance Department, Benefits Section
Augusta County Schools
18 Government Center Lane
Verona, VA 24482**

If you should have questions, contact the Benefits Manager at (540)245-5126 or the Assistant Superintendent for Personnel at (540)245-5107.

C: *FMLA Request Form, FMLA101
Medical Certification Form, FMLA101A
Administrative Manual FMLA Regulation 5.330*



Augusta County School Board

FAMILY AND MEDICAL LEAVE (FMLA) – REQUEST FORM

Employees are entitled under the Family and Medical Leave Act (FMLA) for up to 12 weeks of unpaid job protected leave. FMLA leave is granted for the following reasons: 1.) for the birth of a child and to care for the newborn, 2.) with the placement of a child for adoption or foster care, and to care for the newly placed child, 3.) to care for an immediate family member (spouse, daughter, son, parent) with a serious health condition, 4.) for an employee who is unable to complete the essential functions of his/her job due to a serious health condition, 5.) for an employee and/or family member that has been called to active duty for “any qualifying exigency” and, 6.) 26 weeks of leave to care for a family member that has been injured in the course of active duty. Thirty days notice is required when the need for the leave is foreseeable. When advanced notice is not practical, this leave request needs to be submitted as soon as is feasibly possible, usually within two working days. Requesting FMLA leave or being out sick for more than 3 days does not mean that FMLA is automatically granted.

EMPLOYEE INFORMATION	
Employee Name	School / Department
Job Title	Date of Hire
Type of Leave Requested: <input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent <input type="checkbox"/> Workers' Compensation	
REASON FOR LEAVE	
<input type="checkbox"/> Birth of child and care of newborn	<input type="checkbox"/> Care of spouse, child or parent with a serious health condition
<input type="checkbox"/> Care for a child through adoption or foster care	<input type="checkbox"/> Employee's serious health condition
<input type="checkbox"/> “Qualify exigency” due to active duty in armed forces	<input type="checkbox"/> Care for family member injured in active military duty
Expected start date:	Expected return date:
SIGNATURE SECTION	
<ul style="list-style-type: none"> - FMLA Medical Certification from a health care provider is required to support a request for an employee's own serious health condition or that of an immediate family member, and for the birth of a child. - FMLA Return to Work Certification will be required from a health care provider when returning to work from the employee's own serious health condition. - Employees entitled to paid leave under Augusta County school division policies shall use such leave; including sick, personal, vacation and compensatory time, concurrently with the unpaid family and medical leave entitlement. Once paid leave is exhausted, any remaining family and medical leave is unpaid. 	
<p><i>I acknowledge the above FMLA request and paperwork, and understand the use of paid leave requirements. I also acknowledge that the FMLA request is not valid until it has been certified and approved by the Personnel Department. I understand that I must communicate regularly with my immediate supervisor and must notify the Personnel Department if there are any changes in my leave request or return to work date.</i></p>	
Employee Signature:	
Date Signed:	

Submit The Completed Form To:
Augusta County School Board Finance Department, Attention: Benefits Manager



**FAMILY AND MEDICAL LEAVE (FMLA)
MEDICAL CERTIFICATION FORM**

SECTION I: EMPLOYEE: PLEASE FILL OUT THIS SECTION, AND TAKE THIS FORM TO YOUR HEALTH CARE PROVIDER.

Employee Name	School / Department
Patient Name (if other than employee):	Relation to employee:
Treating Physicians Name:	

SECTION II: HEALTH CARE PROVIDER: PLEASE FILL OUT THIS SECTION AND RETURN AS STATED BELOW.

If the leave is to care for an *immediate family member*, is the employee's presence necessary and/or beneficial to the patient's care? Yes No If Yes, for how long? _____

The information requested below relates only to the serious health condition for which the employee is requesting leave under the Family and Medical Leave Act. Please check the applicable category of the patient's qualifying condition. *NOTE: Definitions on Reverse Side of This Form*

<input type="checkbox"/> Hospital Care	Admission Date:	Discharge Date:
<input type="checkbox"/> Birth of a Child	Estimated Date of Delivery:	<input type="checkbox"/> Request for Mother <input type="checkbox"/> Request for Father
<input type="checkbox"/> Incapacity plus Treatment	<input type="checkbox"/> Two or more treatments by a health care provider; or <input type="checkbox"/> One treatment plus a continuing regimen under supervision of a health care provider	
<input type="checkbox"/> Chronic Serious Health Condition		
<input type="checkbox"/> Permanent or Long-Term Conditions (requiring medical supervision)		

1. Length of time your patient has had/will have this condition: (keeping the employee from essential function of his/her job)	From:	Through:
2. Describe the condition and the <i>regimen of treatment</i> to be prescribed including number of visits, general nature and duration of treatment, including referral to other provider(s) of health services.		

Physician's Signature:		
Contact Person:		
Office Mailing Address:		
Phone Number:	Fax Number:	Date Signed:

Submit The Completed Form To:
Augusta County School Board Finance Department, Attention: Benefits Manager
18 Government Center Lane, Verona, VA 24482
FAX (preferred): 540-245-5115

DEFINITIONS FOR PURPOSES OF FMLA

1. **Incapacity:** the inability to work, attend school or perform other regular daily activities due to the serious health condition and treatment for or recovery from said condition.
2. **Treatment:** includes examinations to determine if a serious health condition exists and evaluations of the condition but does not include routine physical and eye or dental examinations.
3. **A Regimen of Continuing Treatment:** includes, for example, a course of prescription medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications, such as aspirin or antihistamines that can be initiated without a visit to a health care provider.
4. **Serious Health Condition:** an illness, injury, impairment or physical or mental condition involving hospital care, absence plus treatment, pregnancy, a chronic condition requiring treatment or permanent/long term conditions requiring supervision, as described above.
5. **Hospital Care:** inpatient care (an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
6. **Incapacity Plus Treatment:** a period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) which also involves:
 - Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services (e.g. physical therapist) under orders of or on referral by a health care provider; or
 - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider.
7. **Pregnancy:** a period of incapacity due to pregnancy or for prenatal care
8. **Chronic Conditions Requiring Treatment:** a chronic condition which:
 - Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition);
 - May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy)
9. **Permanent/Long Term Conditions Requiring Supervision:**
 - A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving, active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

PERSONNEL

Absences and Leaves

Family and Medical Leave

Any eligible employee is entitled, pursuant to the Family and Medical Leave Act (FMLA), to unpaid leave for a combined total of twelve (12) weeks in a 12-month period for the following situations:

1. The birth and care of a newborn child;
2. The adoption or foster placement of a child;
3. To care for an employee's spouse, parent, or child with a serious health condition;
4. A serious health condition that makes the employee unable to perform the essential functions of the employee's job
5. For qualifying exigencies arising out of the fact that the employee's spouse, child, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

Eligible employees are also allowed under FMLA to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered service member with a serious injury or illness.

To be eligible for leave under this policy the employee must have at least twelve (12) months of service (not necessarily consecutive) with the Augusta County school division and have worked at least 1250 hours in the twelve months preceding the commencement of the leave. Full-time teachers are deemed to meet the 1250-hour test.

In order to determine how much family and medical leave an employee has available, the Augusta County school division will use the "rolling 12-month period method." An employee would start at the point where the requested leave would begin and count back 12 months. Any leave qualifying as family and medical leave and so designated under this regulation, taken within the 12 months prior to the start of the requested leave, would reduce the amount of family and medical leave currently available.

To the extent that an employee is entitled to paid leave under other Augusta County school division policies, such paid leave shall be used concurrently with the unpaid family and medical leave entitlement. Once any paid leave is exhausted, any remaining family or medical leave is unpaid.

If a workers' compensation injury or illness qualifies as a serious health condition under the FMLA, all absences arising out of that serious health condition will be counted against the employee's 12-week FMLA entitlement.

Notice to Employees of Their Right under the FMLA.

The Augusta County school division shall post in conspicuous places where employees are employed, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. Such notice must be posted prominently where it can be seen by employees and applicants for employment and the text must be large enough to easily read.

Information concerning the FMLA entitlement, employee obligations and this policy will be included in the Augusta County school division handbook and other documents informing employees of their rights.

Leave for the Birth, Adoption or Foster Placement of a Child

Upon request, any eligible employee shall be granted family and medical leave for the purpose of caring for a newborn or newly adopted child or the placement of a foster child.

The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at the end of the twelve-month period beginning on the date of the birth, adoption or foster placement. Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or on a reduced leave schedule only if the assistant superintendent agrees to such an arrangement. Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Serious Health Condition of Employee

FMLA shall be provided for an employee's serious health condition. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that requires either (i) inpatient care in a hospital, hospice, or residential medical care facility, or (ii) continuing treatment by or under the supervision of a health care provider. The nature of the condition must be such that it either caused a period of incapacity requiring absence from work, school, or other regular daily activities for more than 3 calendar days, or, if left untreated, would result in such a period of incapacity. To qualify for medical leave for an employee's own serious health condition, the condition must make the employee unable to perform the essential functions of his or her position. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

Serious Health Condition of Child, Spouse or Parent of Employee

Family and medical leave shall be provided when the employee is needed to care for his/her spouse, child or parent with a serious health condition, as defined above. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

Qualifying Exigency Leave

A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave during the normal 12-month period established by the employer for FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, this form of FMLA leave is available to a family member of a military member of the National Guard or Reserves, but does not extend to family members of military members in the Regular Armed Forces.

Serious Injury or Illness of a Service Member

A covered employer must grant an eligible employee who is a spouse, son, daughter, or next of kin of a covered service member with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member. A covered service member is 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 temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred in the line of duty on active duty that may render the service member unfit to perform the duties of his or her office, grade, rank, or rating. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason

during the “single 12-month period.” (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered service member.)

Rules for Intermittent and Reduced Schedule Leave

When permitted in this policy, intermittent and reduced schedule leave may be used until the aggregate amount of such leave equals twelve weeks. If an instructional employee requests intermittent or reduced leave for planned medical treatment for more than one day a week, the employee may be required to elect either to (1) take leave for a particular duration of time, not greater than the duration of the planned treatment, or (2) be transferred to an alternative position. An instructional employee is one who provides direct instructional service and whose presence in the classroom is necessary to the education process. An instructional employee is a teacher, but not an instructional assistant, a curriculum specialist, a counselor, or another administrator or specialist. The school division may assign an employee to an alternative position with equivalent pay and benefits if that better accommodates the employee’s intermittent or reduced schedule leave.

Rules for Husband and Wife Employed by Augusta County School Division

A husband and wife who are both eligible for family and medical leave and are employed by the Augusta County school division shall be granted family and medical leave only for a combined total of twelve weeks per year when the leave is taken for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption or foster placement and to care for a parent with a serious health condition (or 26 weeks if leave to care for a covered service member with a serious injury or illness is also used).

Employee Notice of the Need for Leave

Employees must provide at least thirty days notice of the need for family and medical leave. If the need for the leave is not foreseeable, the employee or his/her designee must give notice as is practicable. In requesting leave, employees shall not be required to use the words family and medical leave, but shall provide sufficient information to make the division aware of the need for the leave. The division shall inquire further of the employee if it is necessary to determine whether family and medical leave applies.

Certification of the Need for Leave

The Augusta County school division may require, and the employee must provide, certification of the need for family and medical leave. Such certification shall be provided on the forms provided by the Personnel Office. If any required medical certifications are not provided, leave may be denied until the certification is provided. The employee will be allowed at least 15 days to provide the required certification.

The medical certification for the employee’s personal illness must identify the nature of the illness, the date the illness began and the projected return-to-work date. For leave to care for a child, spouse, or parent, the medical certification must include an estimate of the amount of time the employee is needed to provide care. At the employer’s discretion and expense, a second medical opinion may be required. Any dispute between the two opinions shall be resolved by the opinion of a third, jointly selected provider and paid for by the division. Any re-certification requested by the employer shall be at the employee’s expense.

Designation of Leave as Family and Medical Leave

The assistant superintendent or designee shall decide whether the employee qualifies for family and medical leave. Leave shall be designated as qualifying for family and medical leave and the employee provided a response as soon as reasonably possible. The response shall be on forms provided by the Personnel Office and shall inform the employee that paid leave shall be used concurrently with family and medical leave

Benefits During Family and Medical Leave

Benefits for the purpose of this section include health insurance, life insurance, FSA's, and retirement credits.

Employees already entitled to these benefits may continue them during a family or medical leave, as described below. Employees not already entitled to these benefits, such as temporary employees, shall not be entitled to them during family or medical leave.

A. Health Insurance

Employees may continue their health insurance coverage for the duration of the family or medical leave. During a paid leave, there is no change in the procedure used by employees to pay for health insurance coverage. If in an unpaid status during this period of time, the employee must submit, directly to the Benefits Office, a check for the amount of the employee's portion of the health insurance premium (for dependents or self, if any) in order to receive coverage. Employees who fail to submit payment within 30 days after a premium is due may lose health insurance coverage.

B. Life Insurance

Employees may also continue coverage under the life insurance program sponsored by the school system. The employee shall be responsible for the entire premium amount (both employer and employee portions) in order to continue this coverage while in an unpaid status.

C. Flexible Spending Accounts

Taking unpaid leave may be considered a "change in family status." Therefore, an employee enrolled in either the health care reimbursement or dependent care accounts may request a change in his or her deduction amounts in accordance with the rules governing this program. An employee may continue, while in an unpaid status, to make contributions to the flexible spending accounts with after-tax dollars by submitting personal checks directly to the Benefits Office. Employees who do not continue in the flexible spending accounts program while in an unpaid status under the Family and Medical Leave Act shall be ineligible to file for reimbursement for any expenses incurred during the leave period.

D. Virginia Retirement System

Employees participating in the Virginia Retirement System (VRS) shall not earn retirement service credit for any periods of unpaid leave in which the leave period represents the entire monthly pay period.

Employees may be eligible to purchase service credit in the VRS for the period of family or medical leave if they satisfy the purchase of service credit requirements of that system.

E. Additional Information on Benefits

1. Benefit coverage shall be canceled for any employee who fails to make the appropriate premium payments within a 30-day grace period for those benefits that he or she is eligible to continue while on unpaid leave. Upon return from family or medical leave, all of the employee's benefits shall be reinstated.
2. Employees who are granted paid intermittent family or medical leave shall have all benefit coverage continued if their paychecks for the pay periods involved are sufficient to withhold the appropriate

employee deductions. Otherwise, the employee must remit payment for the appropriate premium amounts in order to maintain coverage.

3. Employees who fail to return to work with Augusta County Public Schools following the expiration of the unpaid leave period shall have all benefits terminated. These employees shall be obligated to reimburse the school system for the cost of health premiums paid on their behalf while in an unpaid status unless they qualify for an exemption under the Family and Medical Leave Act.

Such employees, however, shall be eligible to continue health insurance coverage under COBRA from the point at which they notify the school system that they will not be returning to employment. When an employee whose coverage has already terminated during family or medical leave due to the employee's failure to make the required premium payments fails to return to work, the employee shall have no entitlement to continued health insurance coverage under COBRA.

4. Employees do not accrue sick leave or annual leave benefits during unpaid FMLA leave.

Return to Work

An employee on family and medical leave shall provide the division at least two work days notice of the intent to return to work. The employee shall be returned to the same or equivalent position at the end of the family and medical leave unless the division shows that the employee would not otherwise have been employed at the time reinstatement is requested.

An employee who does not plan to return to work shall notify the Personnel Department as soon as the decision is made but no later than at the expiration of the leave. Failure to return to work with Augusta County Public Schools without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation.

In order to minimize disruption to instruction, an instructional employee may be restricted in his/her ability to return from family and medical leave within three weeks of the end of an academic term. The assistant superintendent must approve all such end-of-semester instances. If an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be counted against the twelve week family and medical leave entitlement.

The following return to work provisions applies to instructional employees:

1. If an instructional employee begins approved unpaid medical and family leave more than 5 weeks before the end of the school year, the employee may be required to continue taking leave until the end of the school year if the leave is at least 3 weeks in duration and the return to work would occur during the last 3 weeks of the school year.
2. If an instructional employee begins approved unpaid medical and family leave with less than 5 weeks before the end of the school year, for any reason other than the employee's own serious health condition, the employee may be required to take leave until the end of the school year if the leave is longer than 2 weeks in duration and the return to work would occur during the last 2 weeks of the school year.
3. If an instructional employee begins approved unpaid medical and family leave with less than 3 weeks before the end of the school year, for any reason other than the employee's own serious

health condition, the employee may be required to continue taking leave until the end of the school year if the leave is longer than 5 working days in duration.

Any variation between this policy and the Family and Medical Leave Act will be determined in favor of the Act.

Legal reference: Family and Medical Leave Act of 1993; Revised in 2009
Fair Labor Standards Act