

FAMILY AND MEDICAL LEAVE ACT

AND

SMALL NECESSITIES LEAVE ACT

Eligible employees are entitled to take up to 12 weeks of leave for family or medical leave under federal law and up to 24 hours leave for family obligations under state law during a fiscal year (July 1 through June 30). **NEW!** School-based employees who report to a Principal/Headmaster (except custodians, cafeteria workers, and itinerants) may submit their leave requests via the Hub.

A. FEDERAL FAMILY AND MEDICAL LEAVE ACT

1. ELIGIBILITY

Employees who have been employed for at least 12 months at the BPS and who have worked at least 1,250 hours in the prior 12 month period are eligible.

2. PURPOSE

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for a son or daughter within the first 12 months after birth, adoption or placement for adoption or foster care.
- Because the employee is needed to care for a spouse, son, daughter or parent who has a serious health condition.¹
- Because of the employee's own serious health condition which makes the employee unable to perform her/his job.²

¹ Son or daughter means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability. Parent does not include in-laws.

² A serious health condition means an illness, injury, impairment or physical or mental condition that involves:

- a period of incapacity or treatment connected with inpatient care;
- a period of incapacity requiring absence of more than 3 calendar days from work or daily activities also involving continuing treatment by a health care provider;
- any period of incapacity due to pregnancy or for prenatal care;
- any period of incapacity due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy);
- any period of incapacity that is permanent or long term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases); or
- a period of absence to receive multiple treatments for an injury or condition which would result in incapacity for more than three days if not treated (e.g., chemotherapy, physical therapy, dialysis).

3. LENGTH OF LEAVE

Up to 12 weeks of leave may be taken in any fiscal year. This leave may not be taken intermittently or on a reduced schedule unless medically necessary or the employer and employee mutually agree. Where both spouses are employed by the BPS, the leave entitlement is limited to a combined total of 12 weeks of leave if the leave is taken: (1) for birth of the employee's son or daughter or to care for the child after birth; (2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or (3) to care for the employee's parent with a serious health condition. Any period of maternity leave under the Massachusetts Maternity Leave Act would not be subject to the combined limit. For qualifying exigencies³ arising out of the fact that the employee's spouse, son, daughter, 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 to permit a "spouse, son, daughter, parent, or next of kin" to take up to 26 workweeks of leave to care for a "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."

Special restrictions apply to teachers requesting leaves, depending on the length and timing of the leave(s). Please call the Office of Human Resources for advice regarding special rules that apply to teachers in these situations.

³ Qualifying exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and employer agree is a qualifying exigency.

4. REQUESTING A LEAVE OF ABSENCE: NOTICE REQUIREMENT

If the need for leave is foreseeable, an employee must provide BPS with at least thirty days notice. If thirty days notice is not practicable, notice must be given as soon as possible, generally the same or next business day. The Human Resources Department has forms to request FMLA leave. (See Attachment 1) Completed request forms must be submitted to the Responsibility Center Manager who will forward the original copy to the Office of Human Resources. NEW! Employees who are school-based (except those who are custodians, itinerants, cafeteria workers and principal/headmasters) may submit their leave request through the Hub (Instructions and more information below in section 8).

5. CERTIFICATION(S)/DOCUMENTATION

Medical certification/documentation on official letterhead from a health care provider is required for leave because of a serious health condition, and second or third opinions may be required, as well as a fitness for duty report to return to work.

6. PAID OR UNPAID LEAVE AND BENEFITS

Leave is unpaid except to the extent that accrued sick leave, personal leave or vacation leave applies as provided in applicable collective bargaining agreements or school department policy. Employees who are taking leave for their own serious health condition will be required to use their accrued paid sick leave and vacation leave during their FMLA leave until such paid leave has been exhausted. Employees who are taking FMLA leave to care for their spouse, child, or parent will be required to use all accrued paid vacation leave during their FMLA leave until such paid leave has been exhausted. After an employee's accrued paid leave has been exhausted, any remaining FMLA leave will be unpaid.

Medical insurance as part of a group health plan must be maintained. However, benefits do not accrue during unpaid leave, unless otherwise provided by the terms of an applicable collective bargaining agreement.

7. RELATIONSHIP TO OTHER LEAVES PROVIDED BY COLLECTIVE BARGAINING AGREEMENTS OR POLICY

This leave neither diminishes nor augments any greater leave for the same purpose which may be provided for in a collective bargaining agreement or other law or policy.

8. NEW! SCHOOL-BASED EMPLOYEES REQUESTING LEAVE OF ABSENCE

School-based employees (except custodians, itinerants, cafeteria workers, and principals/headmasters) must submit a request for leave electronically via The Hub. Once the leave request is submitted electronically, it is automatically sent to the Principal/Headmaster of the employee's school for notification and to the Office of Human Resources for review. Employees and supervisors will automatically be notified whether the leave was approved, denied or is pending due to documentation, through their BPS email. To request a leave:

- Login to The Hub
- Click on My Benefits
- Select "BPS Leave of Absence form"
- Read through the instructions
- Scroll down and click "Go" at the bottom right to proceed to the request form

Please note employees must state the reason for taking a leave under the Circumstances section on the form. This electronic request form will replace Attachment 1 (on page 6) and the PS03.

B. SMALL NECESSITIES LEAVE ACT (SNLA)

EMPLOYEE LEAVE FOR FAMILY OBLIGATIONS [STATE LAW: 24 HOUR ANNUAL LEAVE]

1. ELIGIBILITY

Employees who have been employed for at least 12 months at the BPS and who have worked at least 1,250 hours in the prior 12 month period are eligible. Same as for federal family and medical leave.

2. PURPOSE

- To participate in school activities directly related to the advancement of the employee's son or daughter,⁴ such as a parent-teacher conference or interview for a new school.⁵
- To accompany a son or daughter to a routine medical or dental appointment such as a routine check-up or vaccination.
- Accompany an elderly relative (60 years or more) to a routine medical or dental appointment or for other professional services such as interviewing at a nursing home.

⁴ A son or daughter includes foster child, legal ward or child of a person standing in *loco parentis*, under 18 years of age or older but incapable of self-care.

⁵ School includes Head Start or a licensed day care facility.

3. LENGTH OF LEAVE AND INCREMENTS

Up to 24 hours during any fiscal year, leave may be taken in increments of at least one hour for up to 24 hours in a fiscal year.

This leave augments leave taken under the federal family and medical leave act, as it is for a different purpose. It does not diminish any greater leave which may be provided for in collective bargaining agreement or other school policy.

4. REQUEST FOR LEAVE: NOTICE REQUIREMENTS

If the need for leave is foreseeable, employees must give the Office of Human Resources at least **seven** days prior notice. If the need is not foreseeable, the employee must notify his/her Responsibility Center Manager as soon as practicable given the circumstances of the case. To the extent possible, employees must provide written notice of the need for leave.

5. CERTIFICATION/DOCUMENTATION

All employees must use the attached certification (page 7) to request a SNLA leave. Applying for this leave cannot be done through the Hub. The original copy must be submitted to the Responsibility Center Manager who will forward it to the Office of Human Resources.

6. PAID OR UNPAID LEAVE

Leave for family obligations is unpaid, unless an employee chooses to substitute accrued vacation or personal time for the unpaid leave, as provided in applicable collective bargaining agreement, school department policy, and except as may be provided for in state law or city ordinance.

For more information about this circular, contact:

Name:	Edward F. Kelleher
Department:	Human Resources
Mailing Address:	26 Court Street, Boston, MA 02108
Phone:	617-635-9670
Fax:	617-635-7957
E-mail:	ekelleher@boston.k12.ma.us

Carol R. Johnson, Superintendent

Attachment 1

**Employee Request for Federal Family and Medical Leave Act
For Non-School Based Employees**

I, _____, hereby notify you of my need to take
(print name)
family/medical leave due to (please check one):

- The birth of my child, or the placement of a child with me for adoption or foster care.
- A serious health condition that makes me unable to perform the essential functions of my job.
- A serious health condition affecting my: spouse, child, parent, for which I am needed to provide care.

I need this leave beginning on _____ and expect the leave to continue until on or about _____.

Except as explained below, I understand that I have a right under the FMLA for up to 12 weeks of unpaid leave for the reason(s) listed above. Also, my health benefits must be maintained during any period of unpaid leave under the same conditions as if I continued to work, and I must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on my return from leave. If I do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle me to FMLA leave; or (2) other circumstances beyond my control, I may be required to reimburse the BPS for its share of health insurance premiums paid on my behalf during my FMLA leave.

I understand that I will be required to furnish medical certification of a serious health condition if my leave is for reason 2) or 3) above. I must furnish certification 15 calendar days after receipt of notice or the commencement of my leave may be delayed until the certification is submitted.

I understand that if my leave is for reason 2) above, I will be required to furnish a fitness for duty certificate from my health care provider before I may return to work

Date _____ Signature _____

Submit original copy to Responsibility Center Manager

*School-based employees (see exceptions on page 8) must submit their request electronically via the Hub.

Small Necessities Leave Act

EMPLOYEE LEAVE FOR FAMILY OBLIGATIONS UP TO TWENTY-FOUR (24) HOURS

Employee's Certification

I certify that on _____ I will/did take _____ hours of leave for the following purpose:

- to participate in school activities directly related to the educational advancement of a son or daughter
- to accompany a son or daughter to routine medical or dental appointments such as check-ups or vaccinations
- to accompany an elderly relative to routine medical or dental appointment or appointment for other professional services related to the elder's care

Employee's Signature : _____

Employee's Name (print) _____

Date: _____

Submit original copy to Responsibility Center Manager