

BATH COUNTY SCHOOL BOARD

AGENDA ITEM: INFORMATION { } ACTION { X } CLOSED MEETING { }

SUBJECT: SUPERINTENDENT'S REPORT - ACTION

VSBA Policies – 2<sup>nd</sup> Reading

BACKGROUND:

- |                             |   |
|-----------------------------|---|
| <b>BBFA<br/>Option 1</b>    | <b>Conflict of Interests and Disclosure of Economic Interests</b><br>Policy updated to reflect revisions to the State and Local Government Conflict of Interests Act by HB 2070 which went into effect on January 1, 2016.<br><i>Expands options for who can give advice/opinions.<br/>Establishes a new state agency.</i>                  |
| <b>CLA</b>                  | <b>Reporting Acts of Violence and Substance Abuse</b><br>Policy updated to reflect the evolution of the Safe and Drug-Free Schools and Communities Act.   |
| <b>GCBE</b>                 | <b>Family and Medical Leave</b><br>Footnote emphasizing the connection between this policy and Policy GCQA Non-school Employment by Staff Members added.<br>Legal References and Cross References updated.<br>Links to some forms included in the Attachments updated.<br><i>Requires a corresponding policy, GCQA, which is in effect.</i> |
| <b>IIAA</b>                 | <b>Textbook Selection, Adoption and Purchase</b><br>Policy updated to reflect Legal References.   |
| <b>IKF</b>                  | <b>Standards of Learning Tests and Graduation Requirements</b><br>Policy updated to reflect amendments to 8 VAC 20-131-110 and new optional policy IKFD Alternative Paths to Attaining Standard Units of Credit.  |
| <b>IKH</b>                  | <b>Retaking SOL Assessments</b><br>Policy revised to reflect amendment of 8 VAC 20-131-110.<br>Legal References updated.  |
| <b>JBA</b>                  | <b>Section 504 Nondiscrimination Policy and Complaint Procedures</b><br>Policy reviewed as part of routine 5-year review and updated to reflect current OCR interpretation, enforcement and guidance.   |
| <b>JGD/JGE<br/>Option 1</b> | <b>Student Suspension/Expulsion</b><br>Reference to the Improving America's Schools Act of 1994 removed to reflect evolution of federal education laws.   |

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SUBJECT: SUPERINTENDENT’S REPORT - ACTION

VSBA Policies – 2<sup>nd</sup> Reading (continued)

JGD/JGE-R

**Student Suspension/Expulsion**

Regulation revised to correspond with Policy. The same regulation now applies for both Options of Policy JGD/JGE.

**Regulation deleted.** The same regulation now applies for both Options of Policy JGD/JGE.

JHCH

**School Meals and Snacks**

Policy updated to reflect BOE Resolution to Implement an Amendment to § 22.1-207.4 of the Code of Virginia, Nutritional Guidelines for Competitive Foods— School-sponsored Fundraisers (December 4, 2015).

*In the absence of a regulation, state board passed a resolution (November 2015) allowing local school divisions to decide the number of fundraisers, in competition with meal regulations, allowed at each school not to exceed 30.*

Optional  
IKFD

**Alternative Paths to Attaining Standard Units of Credit**

RECOMMENDATION: Recommend approval of policies following second reading.  
Approval of Optional Policy IKFD is not recommended at this time and is not included for a second reading.

## CONFLICT OF INTERESTS AND DISCLOSURE OF ECONOMIC INTERESTS

### A. Purpose

The Bath County School Board seeks, through the adoption of this policy, to assure that the judgment of its members, officers and employees will be guided by a policy that defines and prohibits inappropriate conflicts and requires disclosure of economic interests as defined by the General Assembly in the State and Local Government Conflict of Interests Act (the Act).

### B. Areas of Regulation

The Act establishes five principal areas of regulation applicable to Board members, officers and employees of the Bath County School Division. They are:

- special anti-nepotism rules relating to School Board members and superintendents of schools
- general rules governing public conduct by School Board members regarding acceptance of gifts and favors
- prohibited conduct regarding contracts
- required conduct regarding transactions
- disclosures required from School Board members

### C. Definitions

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsubsidiary relationship, that exists when

- one business entity has a controlling ownership interest in the other business entity;
- a controlling owner in one entity is also a controlling owner in the other entity; or
- there is shared management or control between the business entities.

Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means any individual or entity carrying on a business or profession, whether or not for profit.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency which involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision of it.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in Va. Code § 30-355.

"Employee" means all persons employed by a governmental or advisory agency.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of Va. Code § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan forbearance or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include any offer of a ticket, coupon or other admission or pass unless the ticket, coupon, admission or pass is used; honorary degrees; any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution or program's financial aid standards and procedures applicable to the general public; a campaign contribution properly received and reported pursuant to Va. Code § 24.2-945 et seq.; any gift related to the private profession or occupation of the School Board member or employee or of a member of the School Board member's or employee's immediate family; food or beverages consumed while attending an event at which the School Board member or employee is performing official duties related to his public service; food and beverages received at or registration or attendance fees waived for any event at which the School Board member or employee is a featured speaker, presenter or lecturer; unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento or similar item that is given in recognition of public, civic, charitable or professional service; a devise or inheritance; travel disclosed pursuant to the Campaign Finance Disclosure Act (Va. Code § 24.2-945 et seq.); travel paid for or provided by the government of the United States, any of its territories or any state or any political subdivision of such state; travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew or first cousin; a person to whom the donee is engaged to be married; the donee's or donee's spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother or step-sister or the donee's brother's or sister's spouse. For the purpose of this definition, "personal friend" does not include any person that the School Board member or employee knows or has reason to know is (a) a lobbyist registered pursuant to Va.



Code § 2.2-418 et seq.; (b) a lobbyist's principal as defined in Va. Code § 2.2-419; or (c) a person, organization, or business who is a party to or is seeking to become a party to a contract with the School Board. For purposes of this definition, "person, organization or business" includes individuals who are officers, directors or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this policy.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the School Board member or employee and who is a dependent of the School Board member or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to a School Board member or employee or to a member of the immediate family of the School Board member or employee. Such interest shall exist by reason of

- ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
- annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
- salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed \$5,000 annually;
- ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income or salary, other compensation, fringe benefits or benefits from the use of property;
- personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or
- an option for ownership of a business or real or personal property if the ownership interest will consist of the first or fourth bullets above.

"Personal interest in a contract" means a personal interest which an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business which is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or governmental agency, or represents or provides services to any individual or business and such property, business, or represented or served individual or business is

- the subject of the transaction or
- may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.

Notwithstanding the foregoing, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee or elected member of a local governing body is appointed by the local governing body to serve on a governmental agency or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is a result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

#### D. Special Anti-Nepotism Rules Relating to School Board Members and Superintendents

1. The School Board may not employ or pay, and the superintendent may not recommend for employment, the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent or of a School Board member. This provision shall not be construed to prohibit the employment, promotion or transfer within the school division, of any person within a relationship described above when such person
  - has been employed pursuant to a written contract with the School Board or employed as a substitute teacher or teacher's aide by the School Board prior to the taking of office of any member of the Board or superintendent; or
  - has been employed pursuant to a written contract with the School Board or employed as a substitute teacher or teacher's aide by the School Board prior to the inception of such relationship; or

- was employed by the School Board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of the School Board or superintendent.

A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the School Board in the last full school year prior to the taking of office of such Board member or superintendent or to the inception of such relationship.

2. No family member (as listed in section D.1., above) of any employee may be employed by the School Board if the family member is to be employed in a direct supervisory and/or administrative relationship either supervisory or subordinate to the employee. The employment and assignment of family members in the same organizational unit is discouraged.

E. General Rules Governing Public Conduct by School Board Members and Employees Regarding Gifts and Favors

1. Prohibited Conduct

Neither the School Board collectively, nor any member of the Board, shall

- solicit or accept money, or anything else of value, for services performed within the scope of his or her official duties other than his or her regular compensation, expenses or other remuneration;
- offer or accept money, or anything else of value, for or in consideration of obtaining employment, appointment, or promotion in the school division;
- offer or accept any money or anything else of value for or in consideration of the use of his public position to obtain a contract for any person or business with the school division.
- use for his or her own economic benefit, or anyone else's, confidential information gained by reason of his or her office, and which is not available to the public;
- accept any money, loan, gift, favor or service that might reasonably tend to influence the discharge of duties;
- accept any business or professional opportunity from which a School Board member may gain a financial benefit, where the member knows or should know that there is a reasonable likelihood that the opportunity is being offered with intent to influence his or her conduct in the performance of official duties.

## 2. Prohibited Gifts

For purposes of this subsection:

"Person, organization or business" includes individuals who are officers, directors or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable or professional organization, (iii) who are from a particular industry or profession or (iv) who represent persons interested in a particular issue.

School Board members and employees required to file a Statement of Economic Interests as prescribed in Va. Code § 2.2-3117 and members of their immediate families shall not solicit, accept or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for the School Board member or employee or a member of the School Board or employee's immediate family from any person that the School Board member or employee or a member of the School Board's or employee's immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Va, Code § 2.2-418 et seq.; (ii) a lobbyist's principal as defined in Va, Code § 2.2-419; or (iii) a person, organization or business who is or is seeking to become a party to a contract with the School Board. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

Notwithstanding the above, School Board members and employees required to file a Statement of Economic Interests and members of their immediate families may accept or receive

- a gift of food and beverages, entertainment or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the Statement of Economic Interests;
- a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed;
- certain gifts with a value in excess of \$100 from a lobbyist, lobbyist's principal or a person, organization or business who is or is seeking to become a party to a contract with the School Board if such gift was provided to such School Board member or employee or a member of the immediate family of the School Board member or employee on the basis of a personal friendship. A lobbyist, lobbyist's principal or a person, organization or business who is or is seeking to become a party to a contract with the School Board may

be a personal friend of such School Board member or employee or the immediate family of the School Board member or employee. In determining whether a lobbyist, lobbyist's principal or a person, organization or business who is or is seeking to become a party to a contract with the School Board is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in Va. Code §§ 2.2-3117 or 30-111; and

- gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a lobbyist, lobbyist's principal or a person, organization or business who is or is seeking to become a party to a contract with the School Board when the School Board member or employee has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to Va. Code § 30-356.1. Such gifts shall be reported on the Statement of Economic Interests.

The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

No person shall be in violation of this policy if (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to \$100 or less.

### 3. Awards to Employees for Exceptional Service

Nothing herein shall be construed to prohibit or apply to the acceptance by a teacher or other employee of Bath County School Board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

F. Prohibited Conduct Regarding Contracts

1. No School Board member shall have a personal interest in (i) any contract with the School Board or (ii) any contract with any government agency which is subject to the ultimate control of the Board.
  
2. Exceptions - The above prohibition shall not be applicable to:
  - a Board member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the School Board
  - contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public
  - a contract awarded to a member of the School Board as a result of competitive sealed bidding where the School Board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the School Board; however, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the School Board, by written resolution, shall state that it is in the public interest for the member to bid on such contract
  - the sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof
  - the publication of official notices
  - contracts between the School Board and an officer or employee of the School Board when the total of such contracts between the School Board and the officer or employee of the School Board or a business controlled by the officer or employee does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in Va. Code § 2.2-3115
  - an officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract

- contracts between an officer's or employee's governmental agency and a public service corporation, financial institution or company furnishing public utilities in which the officer or employee has a personal interest provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating or approving the contract
- contracts for the purchase of goods or services when the contract does not exceed \$500
- grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency
- an officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee
- employment contracts and other contracts entered into prior to August 1, 1987, provided such contracts were in compliance with the Virginia Conflict of Interests Act (or the Comprehensive Conflict of Interests Act) at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. The employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of the persons is employed in a direct supervisory and/or administrative position with respect to the spouse or other relative residing in his household and the annual salary of the subordinate is \$35,000 or more

#### G. Prohibited Conduct Regarding Transactions

1. Each School Board member and School Board employee who has a personal interest in a transaction
  - a. shall disqualify himself from participating in the transaction if
    - (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidiary or affiliated business entity relationship with the business in which he has a personal interest; or
    - (ii) he is unable to participate pursuant to subdivision G.1.b, G.1.c., or G.1.d. of this policy.

Any disqualification under this subsection shall be recorded in the School Board's public records. The School Board member or employee shall disclose his personal interests as required by Va. Code § 2.2-3115.E and shall not vote or in any manner act on behalf of the School Board in the transaction. The member or employee shall not

- (i) attend any portion of a closed meeting authorized by the Virginia Freedom of Information Act when the matter in which he has a personal interest is discussed;
    - or
    - (ii) discuss the matter in which he has a personal interest with other governmental officers or employees at any time.
  - b. may participate in the transaction if he is a member of a business, profession, occupation or group of three or more persons, the members of which are affected by the transaction, and he complies with the declaration requirements of Va. Code § 2.2-3115.G;
  - c. may participate in the transaction when a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of Va. Code § 2.2-3115.H; or
  - d. may participate in the transaction if it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.
2. Disqualification under this section shall not prevent any employee having a personal interest in a transaction in which his employer is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this policy.
3. If disqualifications under subsection 1.a. of this section leave less than the number required by law to act, the remaining member or members of the Board shall constitute a quorum for the conduct of business and have authority to act for the Board by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.
4. The provisions of this section shall not prevent a Board member or employee from participating in a transaction merely because such a Board member or employee is a defendant in a civil legal proceeding concerning such transaction.

#### H. Disclosure Requirements for School Board Members

- 1. School Board members file, as a condition of assuming office, a disclosure statement of their personal interests and other information as is specified on the Statement of Economic Interests form set forth in Va. Code § 2.2-3117 and thereafter file such statement semiannually by December 15 for the preceding six-month period complete through the last day of October and by June 15 for the preceding six-month period complete through the last day of April. The disclosure forms are filed and maintained as public records for five years in the office of the clerk of the School Board.
- 2. School Board members and employees required to file the Statement of Economic Interests who fail to file such form within the time period prescribed shall be assessed a civil penalty of \$250. The clerk of the School Board shall notify the attorney for the Commonwealth for the locality of any School Board member's or employee's failure



to file the required form and the attorney for the Commonwealth shall assess and collect the civil penalty. The clerk shall notify the attorney for the Commonwealth within 30 days of the deadline for filing.

3. Any Board member or employee who is disqualified from participating in a transaction under Section G.1.a. of this policy, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate and such disclosure shall be reflected in the School Board's public records in the division superintendent's office for a period of five (5) years.
4. Any Board member or employee who is required to disclose his interest under Section G.1.b. of this policy shall declare his interest by stating:
  - the transaction involved;
  - the nature of the Board member's or employee's personal interest affected by the transaction;
  - that he is a member of a business, profession, occupation or group the members of which are affected by the transaction; and
  - that he is able to participate in the transaction fairly, objectively, and in the public interest.

The Board member or employee shall either make his declaration orally to be recorded in written minutes of the Board or file a signed written declaration with the clerk of the Board, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the board member or employee shall prepare and file the required declaration by the end of the next business day. The Board member or employee shall also orally disclose the existence of the interest during each School Board meeting at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

5. A Board member or employee who is required to declare his interest pursuant to subdivision G.1.c. of this policy shall declare his interest by stating
  - (i) the transaction involved;
  - (ii) that a party to the transaction is a client of his firm;
  - (iii) that he does not personally represent or provide services to the client; and
  - (iv) that he is able to participate in the transaction fairly, objectively and in the public interest.

The Board member or employee shall either make his declaration orally to be recorded in written minutes of the Board or file a signed written declaration with the clerk of the Board who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the Board member or employee shall prepare and file the required declaration by the end of the next business day.

### I. Advisory Opinions

School Board members or employees subject to the Act may seek written opinions regarding the Act from the local Commonwealth's attorney; the local county attorney; or the Council. Good faith reliance on any such written opinion bars prosecution for a knowing violation of the Act provided the opinion was made after a full disclosure of the facts.

Adopted: March 26, 2002

Revised: August 5, 2003; September 5, 2006; June 26, 2007; June 24, 2008; June 24, 2010;  
June 23, 2011; September 3, 2013; December 2, 2014; April 8, 2015; June 2, 2015;  
April 5, 2016

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Legal Ref.: Code of Virginia, 1950, as amended, §§ 2.2-3101, 2.2-3102, 2.2-3103, 2.2-3103.2, 2.2-3104.1, 2.2-3108, 2.2-3109, 2.2-3110, 2.2-3112, 2.2-3115, 2.2-3119, 2.2-3121 and 2.2-3124.

Cross Ref.: CBCA                      Disclosure Statement Required of Superintendent  
              GCCB                      Employment of Family Members

## REPORTING ACTS OF VIOLENCE AND SUBSTANCE ABUSE

### I. Acts Reported to the Principal

- A. Except as may otherwise be required by federal law, regulation or jurisprudence, reports are made to the superintendent and to the principal (or designee) on all incidents involving:
- (i) the assault, or assault and battery, without bodily injury, of any person on a school bus, on school property or at a school-sponsored activity;
  - (ii) the assault and battery which results in bodily injury, sexual assault, death, shooting, stabbing, cutting or wounding of any person, or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property or at a school-sponsored activity;
  - (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance or an anabolic steroid on a school bus, on school property or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
  - (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity;
  - (v) the illegal carrying of a firearm, as defined in Va. Code § 22.1-277.07, onto school property;
  - (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85, or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1 or chemical bombs as described in Va. Code § 18.2-87.1, on a school bus, on school property or at a school-sponsored activity;
  - (vii) any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property or school buses;
  - (viii) the arrest of any student for an incident occurring on a school bus, on school property or at a school sponsored activity, including the charge therefor; and
  - (ix) any illegal possession of weapons, alcohol, drugs or tobacco products.

The principal of each school collects and maintains information on the above listed acts which occur on school property, on a school bus or at a school-sponsored activity.

- B. The superintendent and the principal or his designee receive reports from local law-enforcement authorities on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (Va. Code § 54.1-3400 et seq.) and occurred on a school bus, on school property or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. The superintendent may request that the reports include information regarding terms of release from detention, court dates and terms of any disposition orders entered by the court. When the superintendent receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection

G of Va. Code § 16.1-260, the superintendent reports such information to the principal of the school in which the juvenile is enrolled.

## II. Reporting Duties of the Principal and Superintendent

The principal or designee reports all incidents required to be reported pursuant to section I of this policy to the superintendent. The superintendent annually reports all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that are provided by the Department and makes such information available to the public.

In submitting reports of such incidents, principals and superintendents accurately indicate any offenses, arrests or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection I.B. of this policy.

Except as may otherwise be required by federal law, regulation or jurisprudence, the principal immediately reports to local law-enforcement officials any of the acts listed in clauses (ii) through (vii) of subsection I.A of this policy which may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection I.A.

In addition, except as may be prohibited by federal law, regulation or jurisprudence, the principal also immediately reports any act enumerated in clauses (ii) through (v) of subsection I.A of this policy that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal reports that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

The principal or principal's designee notifies the parent of any student involved in an incident required to be reported pursuant to this policy, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice relates to only the relevant student's involvement and does not include information regarding other students.

## III. Prevention and Intervention Activities

Whenever any student commits any reportable incident as set forth in this policy, such student is required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or superintendent's designee.

The School Board develops, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events, which include prevention of hazing. Activities designed to prevent the recurrence of violence and crime, including hazing, may include such interventions as education relating to Virginia's criminal law, school crime lines, peer mediation, conflict resolution, community service requirements and any program focused on demonstrating the consequences of violence and

crime. The School Board may develop and use a network of volunteer services in implementing prevention activities.

#### IV. Purpose

The purpose of reporting acts of violence and substance abuse is to develop a program of prevention activities to provide a safe environment conducive to learning.

Adopted: June 28, 2002

Revised: June 26, 2003; June 25, 2004; June 23, 2005; September 5, 2006; April 3, 2007;  
May 9, 2011; June 23, 2011; April 8, 2015; April 5, 2016

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Legal Refs.: Code of Virginia, 1950, as amended, §§ 8.01-47, 22.1-279.3:1, 22.1-279.9.

8 VAC 20-560-10.

## FAMILY AND MEDICAL LEAVE

### Generally

The Bath County School Board recognizes its obligation to provide its eligible employees with unpaid leave pursuant to the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et seq. This policy describes the benefits available to eligible employees under the Act.

### Definitions

Covered active duty: The term covered “active duty” means

- in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
- in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).

Covered servicemember: The term “covered servicemember” means

- 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 the temporary disability retired list, for a serious injury or illness; or
- a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Eligible employee: To be eligible for leave under this policy the employee must have at least twelve (12) months of service with the Bath County school division and have worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., in the twelve (12) months preceding the commencement of the leave. Full-time teachers are deemed to meet the 1250 hour test.

Instructional employee: Employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, or auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Next of kin: The term “next of kin” used with respect to an individual, means the nearest blood relative of that individual other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody

of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

**Outpatient status:** The term "outpatient status," with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to

- A. a military medical treatment facility as an outpatient; or
- B. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Serious health condition:** A serious health condition is an illness, injury, impairment or condition that involves inpatient care or continuing treatment by a health care provider.

**Serious injury or illness:** The term "serious injury or illness," in the case of

- a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S.C. § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

**Year:** A rolling 12-month period measured backward from the date an employee uses an FMLA leave.

## Leave

Any eligible employee is entitled to leave for a combined total of twelve (12) weeks per year 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. Because of a serious health condition that makes the employee unable to perform the essential functions of the employee's job; and

5. Because of any qualifying exigency as defined in Department of Labor regulations, arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave per year to care for the servicemember. Leave under this paragraph is available only during a single year. During that year the employee is entitled to a combined total of 26 workweeks of leave under this policy.

To the extent that an employee is entitled to compensated leave under other Bath County school division policies, such paid leave shall be substituted for unpaid FMLA leave. Otherwise, family and medical leave is unpaid. When paid leave is available, the employee must satisfy any procedural requirements of the division's paid leave policy.

Employees on FMLA leave must report their status and intention regarding returning to work to the school division at least every four weeks.

#### Notice to Employees of Their Rights under the FMLA

##### Posting and General Notice

The Bath County school division shall post, in conspicuous places, on the premises of the school division where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. Attachment 1 may be used as the notice.

A copy of Attachment 1 will also be given to each employee by including it in the employee handbook or similar document or by distributing it to each new employee upon hiring.

##### Eligibility Notice

When an employee requests FMLA leave, or the division has knowledge that an employee's leave may be for an FMLA-qualifying reason, the division should notify the employee of the employee's eligibility to take FMLA leave within five business days. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one reason why the employee is not eligible (such as, for example, the number of months the employee has worked for the division.) This notification may be accomplished by providing the employee a copy of Attachment 4.



## Notice of Rights and Responsibilities

The division will provide written notice detailing the specific expectations and obligations of the employee and explaining the consequences of the failure to meet those obligations each time the employee is given an Eligibility Notice. This Notice will include, as appropriate:

- that the leave may be designated and counted against the employee's annual FMLA leave entitlement and the 12-month period for FMLA entitlement;
- any requirements for the employee to furnish certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status, and the consequences of failing to provide certification;
- that the division will substitute paid leave for unpaid leave and any conditions related to the substitution and the employee's right to take unpaid FMLA leave if the employee does not meet the conditions for paid leave;
- any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis;
- the employee's rights to maintenance of benefits during the FMLA leave and restoration to the same or an equivalent job upon return from FMLA leave; and
- the employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after FMLA leave.

The Notice of Rights and Responsibilities should be accompanied by any required certification form.

The Notice of Rights and Responsibilities will also include notice that employees on FMLA leave must report their status and intention regarding returning to work to the division at least every four weeks.

If the information provided by the Notice of Rights and Responsibilities changes, the division will, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, provide written notice referencing the prior notice and setting forth any of the information in the Notice of Rights and Responsibilities that has changed.

## Designation Notice

When the division has enough information to determine whether the leave is being taken for a FMLA-qualifying reason, the division should give the employee written notice whether the leave will be designated and will be counted as FMLA leave within five business days. If the division determines that the leave will not be designated as FMLA-qualifying, the division must inform the employee of that determination. The division will also notify the employee that paid leave must be substituted for unpaid FMLA leave or that paid leave taken under an existing leave plan be counted as FMLA leave at the time of designating the FMLA leave.

If the division will require the employee to present a fitness-for-duty certification to be restored to employment after taking leave for a continuous period of time, the division will provide notice of the requirement with the Designation Notice. If the division will require that the fitness-for-duty certification address the employee's ability to perform the essential functions of the employee's position, the division must so indicate in the Designation Notice and must include a list of the essential functions of the employee's position.

If the division has reasonable safety concerns regarding the ability of an employee who is returning to work after intermittent or reduced leave schedule to perform his or her duties based on the serious health condition for which the employee took leave, it may require the employee to submit a fitness for duty certification unless one has been submitted within the past 30 days.

If the leave is not designated as FMLA leave because it does not meet the requirements of the FMLA, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

If the information provided by the division to the employee in the Designation Notice changes, the division will provide, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change.

The division will notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave needed is known at the time the employer designates the leave as FMLA-qualifying, the division must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the hours, days, or weeks that will be counted against the employee's FMLA leave entitlement, then the division must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon request by the employee but no more often than once in a 30-day period and only if leave was taken in that period.

The division's decision to designate leave as FMLA-qualifying will be based only on information received from the employee or the employee's spokesperson. If the division does not have sufficient information about the reason for an employee's use of leave, the division will inquire further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-qualifying. Once the division has knowledge that the leave is being taken for a FMLA-qualifying reason, the division will provide the employee the notice described in this subsection.

An employee giving notice of the need for FMLA leave must explain the reasons for the needed leave so as to allow the division to determine whether the leave is FMLA-qualifying. If the employee fails to explain the reasons, leave may be denied.

### Leave for the Birth, Adoption or Foster Placement of a 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 if the superintendent agrees to such an arrangement.

If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable based on an expected birth or placement, the employee shall provide the school division with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable. The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.

### Leave Because of a Serious Health Condition of Employee

Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
- (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.

The School Board may require that a request for leave because of the employee's own serious health condition be supported by a certification issued by a health care provider of the employee. The division may use Form WH-380-E (Attachment 2) for this certification. The division should request that the employee furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The division may request certification at a later date if it later has reason to question the appropriateness of the leave or its duration. The employee must provide a complete and sufficient certification within 15 calendar days after the division's request. When the division requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states

- (1) the name, address, telephone number and fax number of the health care provider and the type of medical practice/specialization;
- (2) the approximate date on which the serious health condition commenced and its probable duration;
- (3) a statement or description of appropriate medical facts regarding the employee's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (4) information sufficient to establish that the employee is unable to perform the essential functions of his or her position, the nature of any other work restrictions, and the likely duration of such inability.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of his or her serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates on which such treatment is expected to be given and the duration of such treatment and any period of recovery.

If an employee requests leave on an intermittent or reduced leave schedule because of his or her own serious health condition that may result in unforeseeable episodes of incapacity, the certification shall include information sufficient to establish the medical necessity for the intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency and duration of the episodes of incapacity.

If the employee submits a complete and sufficient certification signed by the health care provider, the division may not request additional information from the health care provider. However, the division may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the division must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.

If the school division doubts the validity of a certification, it may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the school division concerning any information certified. The health care provider designated or approved by the school division may not be employed by the school division on a regular basis.

If the second opinion differs from the original certification, the school division may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the school division and the employee concerning information certified. The opinion of the third health care provider will be binding on both the school division and the employee.

## Leave Because of a Serious Health Condition of a 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.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
- (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The School Board may require that a request for leave to care for an employee's spouse, parent, or child with a serious health condition be supported by a certification issued by a health care provider of the family member in need of care. The division may use Form WH-380-F (Attachment 3) for this medical certification. The division should ask the employee to furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The division may request certification at some later date if it has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification within 15 calendar days after the division's request. When the division requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states

- (1) the name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
- (2) the approximate date on which the serious health condition commenced and its probable duration;
- (3) a statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (4) information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of a family member's serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule

leave and an estimate of the dates and the duration of such treatments and any periods of recovery.

If an employee requests leave on an intermittent reduced leave schedule in order to care for a family member with a serious health condition, the certification shall include a statement that the employee's intermittent leave or leave on a reduced leave schedule is medically necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

If the employee submits a complete and sufficient certification signed by the health care provider, the division may not request additional information from the health care provider. However, the division may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the division must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.

If the school division doubts the validity of a certification, it may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the school division concerning any information certified. The health care provider designated or approved by the school division may not be employed by the school division on a regular basis.

If the second opinion differs from the original certification, the school division may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the school division and the employee concerning information certified. The opinion of the third health care provider will be binding on both the school division and the employee.

#### Leave to Care for a Covered Servicemember

If the necessity for leave is foreseeable based on planned medical treatment for a serious injury or illness of a covered servicemember, the employee shall

- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division; and
- (2) provide the division with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The School Board may require that a request for leave to care for a covered servicemember with a serious injury or illness be supported by a certification issued by a health care provider of the covered serviceperson. The certification may be completed by any health

care provider listed in 29 C.F.R. 825.310(a). The employee shall provide, in a timely manner, a copy of such certification to the school division.

Certification will be sufficient if it states

- (1) the name, address, and appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and whether the health care provider is one of the following: a (DOD) health care provider, a United States Department of Veterans Affairs (VA) health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized health care provider or a health care provider as defined in 29 C.F.R. 825.125;
- (2) whether the covered servicemember's injury or illness was incurred in the line of duty on active duty;
- (3) the approximate date on which the serious health condition or serious injury or illness commenced or was aggravated and its probable duration;
- (4) a statement or description of appropriate medical facts regarding the covered servicemember's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- (5) information sufficient to establish that the covered servicemember is in need of care and whether the covered servicemember will need care for a single continuous period of time, including any time for treatment and recovery, and an estimate as to the beginning and ending dates for this period of time.

If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned medical treatment appointments for the covered servicemember, the certification must state that there is a medical necessity for the covered servicemember to have such periodic care and must contain an estimate of the treatment schedule of such appointments.

If an employee requests FMLA leave on an intermittent or reduced schedule basis to care for a covered servicemember other than for planned medical treatment, the certification must contain a statement that there is a medical necessity for the covered servicemember to have such periodic care, and must contain an estimate of the frequency and duration of the periodic care.

In addition to the information listed above, the division may also request that the certification set forth the information on Form WH-385 (Attachment 7.)

In lieu of Form WH-385, the division will accept invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued to any family member to join an injured or ill servicemember at his or her bedside. An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, the employee may take leave to care for the covered servicemember in a continuous block of time or on an intermittent basis.

The information on the certification must relate only to the serious injury or illness for which the current need for leave exists. The division may seek authentication or clarification of the certification, ITO, or ITA but may not seek second or third opinions. The division may

require an employee to provide confirmation of covered family relationship to the seriously injured or ill servicemember.

The division will also accept as sufficient certification of the servicemember's serious injury or illness documentation indicating the servicemember's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

#### Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give such notice to the school division as is reasonable and practicable. The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the division may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the division if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

A request for leave because of a qualifying exigency must be supported by

- (1) a statement or description signed by the employee of appropriate facts regarding the qualifying exigency for which FMLA leave is requested. The facts must be sufficient to support the need for leave;
- (2) the approximate date on which the qualifying exigency commenced or will commence;
- (3) the beginning and ending dates of absence if the employee requests leave because of a qualifying exigency for a single, continuous period of time;
- (4) an estimate of the frequency and duration of the qualifying exigency if the employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis;
- (5) if the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting and a brief description of the purpose of the meeting; and
- (6) if the qualifying exigency involves Rest and Recuperation leave, a copy of the military member's Rest and Recuperation orders, or other documentation issued by the military which indicates that the military member has been granted Rest



and Recuperation leave, and the dates of the military member's Rest and Recuperation leave.

The division may use Form WH-384 (Attachment 6) for this certification.

#### Rules for Intermittent and Reduced Schedule Leave

When permitted by the FMLA, intermittent and reduced schedule leave may be used until the aggregate amount of such leave equals twelve weeks or 26 weeks if the leave is taken to care for a covered servicemember in the employee's rolling year. However, when the employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment the school division may temporarily transfer the employee to an available alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced schedule leave.

When an eligible employee employed principally in an instructional capacity requests leave to care for a family member with a serious health condition, leave because of the employee's own serious health condition, or leave to care for a covered servicemember and the leave is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the school division may require the employee to elect either

- (1) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
- (2) to transfer temporarily to an available alternative position offered by the school division for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the employee's regular employment position.

The school division may require an employee to make such an election when the employee has

- (1) made a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the division, subject to the approval of the health care provider; and
- (2) has provided the division with not less than 30 days' notice before the date the leave is to begin, of the employee's intention to take leave, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

#### Rules for Husband and Wife Employed by Bath County School Division

A husband and wife who are both eligible for family and medical leave and are employed by Bath 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 or to care for a parent with a serious health condition.

A husband and wife who are both eligible for family and medical leave and are employed by Bath County school division shall be granted family and medical leave only for a combined total of 26 workweeks per year if the leave

- (1) is taken to care for a covered servicemember; or
- (2) is taken as a combination of leave to care for a covered servicemember and leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition. However, if the leave taken by the husband and wife includes leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition, the leave for that reason shall be limited to 12 workweeks per year.

#### Benefits During Family and Medical Leave

Employees on family and medical leave shall receive the group health insurance plan coverage on the same conditions as coverage would have been provided if the employee had been working during the period of leave. Other benefits shall be provided according to Bath County school division policy for paid or unpaid leave, whichever applies.

If the employee fails to return to work when the period of leave to which he or she is entitled expires for any reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave, or other circumstances beyond the employee's control, the school division may recover the premium it paid for maintaining the employee's coverage during the period of unpaid leave in accordance with federal law.

#### 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.

The following return to work provisions apply to instructional employees:

1. If an instructional employee begins family and medical leave more than five (5) weeks before the end of an academic term, the employee may be required to continue taking leave until the end of the term if the leave is at least three (3) weeks in duration and the return to work would occur during the last three (3) weeks of the academic term.
2. If an instructional employee begins family and medical leave a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, b) to care for a family member with a serious health condition, or c) to care for a covered servicemember during the five (5) week period before the end of an academic term, the employee may be required to continue taking leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of the academic term.

3. If an instructional employee begins family and medical leave a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, b) to care for a family member with a serious health condition, or c) to care for a covered servicemember during the three (3) week period before the end of an academic term, the employee may be required to continue taking leave until the end of an academic term if the leave is longer than five (5) working days in duration.

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 family and medical leave entitlement. However, the division must continue the group health insurance coverage under the same conditions as if the employee were working.

#### Outside Employment

An employee who is on family and medical leave may not engage in employment for any other employer or self-employment while on leave. Falsification of records and failure to correct records known to be false are violations of this policy and will result in discipline which may include termination from employment.

Adopted: January 1998

Revised: June 25, 2004; April 1, 2008; April 9, 2009; April 6, 2010; December 3, 2013;  
April 5, 2016

Legal Refs.: 29 U.S.C. §§ 207, 2611, 2612, 2613, 2614, 2618, 2619.

29 C.F.R. 825.110, 825.115, 825.122, 825.124, 825.125, 825.200, 825.203, 825.207, 825.300, 825.301, 825.302, 825.303, 825.305, 825.306, 825.307, 825.309, 825.310, 825.311, 825.312, 825.600, 825.602, 825.603, 825.800.

Cross Refs.:	GCBD	Staff Leaves and Absences
	GCBEA	Leave without Pay
	GCQA	Nonschool Employment by Staff Members

## ATTACHMENTS

- Attachment 1                    **Employee Rights and Responsibilities Under the Family and Medical Leave Act** (WHD Publication 1420) (Revised February 2013)  
*Please note: a copy of this poster can be downloaded from*  
<http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>
- Attachment 2                    **Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)** (Form WH-380-E) (Revised May 2015)  
*Please note: a copy of the certification form can be downloaded from*  
<http://www.dol.gov/whd/forms/WH-380-E.pdf>
- Attachment 3                    **Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act)** (Form WH-380-F) (Revised May 2015)  
*Please note: a copy of this form may be downloaded from*  
<http://www.dol.gov/whd/forms/WH-380-F.pdf>
- Attachment 4                    **Notice of Eligibility and Rights & Responsibilities (Family and Medical Leave Act)** (Form WH-381) (Revised February 2013)  
*Please note: a copy of this form may be downloaded from*  
<http://www.dol.gov/whd/forms/WH-381.pdf>
- Attachment 5                    **Designation Notice (Family and Medical Leave Act)**  
(Form WH-382)  
*Please note: a copy of this form may be downloaded from*  
<http://www.dol.gov/whd/forms/WH-382.pdf>
- Attachment 6                    **Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act)** (Form WH-384) (Revised February 2013)  
*Please note: a copy of this form may be downloaded from*  
<http://www.dol.gov/whd/forms/WH-384.pdf>
- Attachment 7                    **Certification for Serious Injury or Illness of Covered Servicemember—for Military Family Leave (Family and Medical Leave Act)** (Form WH-385) (Revised May 2015)  
*Please note: a copy of this form may be downloaded from*  
<http://www.dol.gov/whd/forms/WH-385.pdf>

Attachment 8

**Certification for Serious Injury or Illness of a Veteran for  
Military Caregiver Leave (Family and Medical Leave Act)**  
(Form WH-385-V (revised May 2015))

*Please note: a copy of this form may be downloaded from  
<http://www.dol.gov/whd/forms/wh385V.pdf>*



# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week 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 also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember 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, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 - Revised February 2013

Certification of Health Care Provider for  
Employee's Serious Health Condition  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003  
Expires: 5/31/2018

**SECTION I: For Completion by the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: \_\_\_\_\_

Employee's job title: \_\_\_\_\_ Regular work schedule: \_\_\_\_\_

Employee's essential job functions: \_\_\_\_\_

Check if job description is attached: \_\_\_\_\_

**SECTION II: For Completion by the EMPLOYEE**

**INSTRUCTIONS to the EMPLOYEE:** Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: \_\_\_\_\_  
First Middle Last

**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: \_\_\_\_\_

Type of practice / Medical specialty: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

**Mark below as applicable:**

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No  Yes. If so, dates of admission:

\_\_\_\_\_

Date(s) you treated the patient for condition:

\_\_\_\_\_

Will the patient need to have treatment visits at least twice per year due to the condition?  No  Yes.

Was medication, other than over-the-counter medication, prescribed?  No  Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No  Yes. If so, state the nature of such treatments and expected duration of treatment:

\_\_\_\_\_

2. Is the medical condition pregnancy?  No  Yes. If so, expected delivery date: \_\_\_\_\_

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition:  No  Yes.

If so, identify the job functions the employee is unable to perform:

\_\_\_\_\_

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**PART B: AMOUNT OF LEAVE NEEDED**

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery?  No  Yes.

If so, estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition?  No  Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?  
 No  Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

\_\_\_\_\_

Estimate the part-time or reduced work schedule the employee needs, if any:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions?  No  Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?  
 No  Yes. If so, explain:

\_\_\_\_\_  
\_\_\_\_\_

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours or \_\_\_\_\_ day(s) per episode

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider’s name and business address: \_\_\_\_\_

Type of practice / Medical specialty: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_ Fax:( \_\_\_\_\_ ) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?  
\_\_\_ No \_\_\_ Yes. If so, dates of admission: \_\_\_\_\_

Date(s) you treated the patient for condition: \_\_\_\_\_

Was medication, other than over-the-counter medication, prescribed? \_\_\_ No \_\_\_ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? \_\_\_ No \_\_\_ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?  
\_\_\_ No \_\_\_ Yes. If so, state the nature of such treatments and expected duration of treatment:

\_\_\_\_\_  
\_\_\_\_\_

2. Is the medical condition pregnancy? \_\_\_ No \_\_\_ Yes. If so, expected delivery date: \_\_\_\_\_

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART B: AMOUNT OF CARE NEEDED:** When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery?  No  Yes.

Estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

During this time, will the patient need care?  No  Yes.

Explain the care needed by the patient and why such care is medically necessary:

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5. Will the patient require follow-up treatments, including any time for recovery?  No  Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

---

Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

---

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery?  No  Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

\_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

Explain the care needed by the patient, and why such care is medically necessary:

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7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? \_\_\_ No \_\_\_ Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: \_\_\_ times per \_\_\_ week(s) \_\_\_ month(s)

Duration: \_\_\_ hours or \_\_\_ day(s) per episode

Does the patient need care during these flare-ups? \_\_\_ No \_\_\_ Yes.

Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature of Health Care Provider**

\_\_\_\_\_  
**Date**

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

**DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

Notice of Eligibility and Rights & Responsibilities  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



OMB Control Number: 1235-0003  
Expires: 5/31/2018

In general, to be eligible an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. § 825.300(b), (c).

**[Part A – NOTICE OF ELIGIBILITY]**

TO: \_\_\_\_\_  
Employee

FROM: \_\_\_\_\_  
Employer Representative

DATE: \_\_\_\_\_

On \_\_\_\_\_, you informed us that you needed leave beginning on \_\_\_\_\_ for:

- \_\_\_\_\_ The birth of a child, or placement of a child with you for adoption or foster care;
- \_\_\_\_\_ Your own serious health condition;
- \_\_\_\_\_ Because you are needed to care for your \_\_\_\_\_ spouse; \_\_\_\_\_ child; \_\_\_\_\_ parent due to his/her serious health condition.
- \_\_\_\_\_ Because of a qualifying exigency arising out of the fact that your \_\_\_\_\_ spouse; \_\_\_\_\_ son or daughter; \_\_\_\_\_ parent is on covered active duty or call to covered active duty status with the Armed Forces.
- \_\_\_\_\_ Because you are the \_\_\_\_\_ spouse; \_\_\_\_\_ son or daughter; \_\_\_\_\_ parent; \_\_\_\_\_ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

- \_\_\_\_\_ Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)
- \_\_\_\_\_ Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
  - \_\_\_\_\_ You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately \_\_\_\_\_ months towards this requirement.
  - \_\_\_\_\_ You have not met the FMLA's hours of service requirement.
  - \_\_\_\_\_ You do not work and/or report to a site with 50 or more employees within 75-miles.

If you have any questions, contact \_\_\_\_\_ or view the FMLA poster located in \_\_\_\_\_.

**[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE]**

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by \_\_\_\_\_.** (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- \_\_\_\_\_ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request \_\_\_\_\_ is/ \_\_\_\_\_ is not enclosed.
- \_\_\_\_\_ Sufficient documentation to establish the required relationship between you and your family member.
- \_\_\_\_\_ Other information needed (such as documentation for military family leave): \_\_\_\_\_

\_\_\_\_\_ No additional information requested

If your leave does qualify as FMLA leave you will have the following responsibilities while on FMLA leave (only checked blanks apply):

Contact \_\_\_\_\_ at \_\_\_\_\_ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

You will be required to use your available paid \_\_\_\_\_ sick, \_\_\_\_\_ vacation, and/or \_\_\_\_\_ other leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.

Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We \_\_\_\_\_ have/\_\_\_\_\_ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.

While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every \_\_\_\_\_. (Indicate interval of periodic reports, as appropriate for the particular leave situation).

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following rights while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:
  - \_\_\_\_\_ the calendar year (January – December).
  - \_\_\_\_\_ a fixed leave year based on \_\_\_\_\_.
  - \_\_\_\_\_ the 12-month period measured forward from the date of your first FMLA leave usage.
  - \_\_\_\_\_ a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on \_\_\_\_\_.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- If you 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 you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have \_\_\_\_\_ sick, \_\_\_\_\_ vacation, and/or \_\_\_\_\_ other leave run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

\_\_\_\_\_ For a copy of conditions applicable to sick/vacation/other leave usage please refer to \_\_\_\_\_ available at: \_\_\_\_\_.

\_\_\_\_\_ Applicable conditions for use of paid leave: \_\_\_\_\_

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

\_\_\_\_\_ at \_\_\_\_\_.

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**



Designation Notice  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



OMB Control Number: 1235-0003  
Expires: 5/31/2018

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: \_\_\_\_\_

Date: \_\_\_\_\_

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on \_\_\_\_\_ and decided:

Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: \_\_\_\_\_

Because the leave you will need will be uncheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

**Please be advised (check if applicable):**

You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

We are requiring you to substitute or use paid leave during your FMLA leave.

You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position  is  is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

**Additional information is needed to determine if your FMLA leave request can be approved:**

The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than \_\_\_\_\_, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.  
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

Your FMLA Leave request is Not Approved.

The FMLA does not apply to your leave request.

You have exhausted your FMLA leave entitlement in the applicable 12-month period.

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Certification of Qualifying Exigency  
For Military Family Leave  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



OMB Control Number: 1235-0003  
Expires: 5/31/2018

**SECTION I: For Completion by the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.309.

Employer name: \_\_\_\_\_

Contact Information: \_\_\_\_\_

**SECTION II: For Completion by the EMPLOYEE**

**INSTRUCTIONS to the EMPLOYEE:** Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 CFR 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: \_\_\_\_\_  
  First  Middle  Last

Name of military member on covered active duty or call to covered active duty status:  
\_\_\_\_\_  
  First  Middle  Last

Relationship of military member to you: \_\_\_\_\_

Period of military member's covered active duty: \_\_\_\_\_

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a military member's covered active duty or call to covered active duty status. Please check one of the following and attach the indicated document to support that the military member is on covered active duty or call to covered active duty status.

A copy of the military member's covered active duty orders is attached.

Other documentation from the military certifying that the military member is on covered active duty (or has been notified of an impending call to covered active duty) is attached.

I have previously provided my employer with sufficient written documentation confirming the military member's covered active duty or call to covered active duty status.

**PART A: QUALIFYING REASON FOR LEAVE**

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

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2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military; a document confirming the military member's Rest and Recuperation leave; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached.

Yes       No       None Available

**PART B: AMOUNT OF LEAVE NEEDED**

1. Approximate date exigency commenced: \_\_\_\_\_

Probable duration of exigency: \_\_\_\_\_

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

Yes       No

If so, estimate the beginning and ending dates for the period of absence:

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3. Will you need to be absent from work periodically to address this qualifying exigency?    Yes     No

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

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Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours \_\_\_\_\_ day(s) per event.

**PART C:**

If leave is requested to meet with a third party (such as to arrange for childcare or parental care, to attend counseling, to attend meetings with school, childcare or parental care providers, to make financial or legal arrangements, to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Describe nature of meeting: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART D:**

I certify that the information I provided above is true and correct.

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.**

Certification for Serious Injury or  
Illness of a Current  
Servicemember - -for Military Family Leave  
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003  
Expires: 5/31/2018

**Notice to the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a current servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

**SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave**

**INSTRUCTIONS to the EMPLOYEE or CURRENT SERVICEMEMBER:** Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

**SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a current member of the Regular Armed Forces, the National Guard, or the 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. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the servicemember's condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

**SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:**

(This section must be completed first before any of the below sections can be completed by a health care provider.)

**Part A: EMPLOYEE INFORMATION**

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

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Name of Employee Requesting Leave to Care for the Current Servicemember:

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First	Middle	Last
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Name of the Current Servicemember (for whom employee is requesting leave to care):

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First	Middle	Last
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Relationship of Employee to the Current Servicemember:

Spouse  Parent  Son  Daughter  Next of Kin

**Part B: SERVICEMEMBER INFORMATION**

(1) Is the Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?  
Yes  No

If yes, please provide the servicemember's military branch, rank and unit currently assigned to:

---

Is the servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

Yes  No

If yes, please provide the name of the medical treatment facility or unit:

---

(2) Is the Servicemember on the Temporary Disability Retired List (TDRL)?  
Yes  No

**Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER**

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

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**SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator).**

(Please ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.)

**Part A: HEALTH CARE PROVIDER INFORMATION**

Health Care Provider’s Name and Business Address:

\_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

**PART B: MEDICAL STATUS**

(1) The current Servicemember’s medical condition is classified as (Check One of the Appropriate Boxes):

**(VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

**(SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

**OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

**NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380-F or an employer-provided form seeking the same information.)

(2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes  No

(3) Approximate date condition commenced: \_\_\_\_\_

(4) Probable duration of condition and/or need for care: \_\_\_\_\_

(5) Is the servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes  No

If yes, please describe medical treatment, recuperation or therapy:

---

**PART C: SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER**

(1) Will the servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes  No

If yes, estimate the beginning and ending dates for this period of time: \_\_\_\_\_

(2) Will the servicemember require periodic follow-up treatment appointments? Yes  No

If yes, estimate the treatment schedule: \_\_\_\_\_

(3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes  No

(4) Is there a medical necessity for the servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?  
Yes  No

If yes, please estimate the frequency and duration of the periodic care:

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**Signature of Health Care Provider:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**



Certification for Serious Injury  
or Illness of a Veteran for  
Military Caregiver Leave  
(Family and Medical Leave Act)

U.S. Department of Labor  
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE EMPLOYEE

OMB Control Number: 1235-0003  
Expires: 5/31/2018

**Notice to the EMPLOYER**

The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

**SECTION I: For completion by the EMPLOYEE and/or the VETERAN for whom the employee is requesting leave**

**INSTRUCTIONS to the EMPLOYEE and/or VETERAN:** Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

(This section must be completed before Section II can be completed by a health care provider.)

**Part A: EMPLOYEE INFORMATION**

Name and address of employer (this is the employer of the employee requesting leave to care for a veteran):

\_\_\_\_\_

Name of employee requesting leave to care for a veteran:

\_\_\_\_\_

First	Middle	Last
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Name of veteran (for whom employee is requesting leave):

\_\_\_\_\_

First	Middle	Last
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Relationship of employee to veteran:

Spouse     Parent     Son     Daughter     Next of Kin  (please specify relationship):

Part B: VETERAN INFORMATION

- (1) Date of the veteran's discharge:  
\_\_\_\_\_
  
- (2) Was the veteran **dishonorably** discharged or released from the Armed Forces (including the National Guard or Reserves)? Yes  No
  
- (3) Please provide the veteran's military branch, rank and unit at the time of discharge:  
\_\_\_\_\_
  
- (4) Is the veteran receiving medical treatment, recuperation, or therapy for an injury or illness?  
Yes  No

Part C: CARE TO BE PROVIDED TO THE VETERAN

Describe the care to be provided to the veteran and an estimate of the leave needed to provide the care:

\_\_\_\_\_  
\_\_\_\_\_

**SECTION II: For completion by: (1) a United States Department of Defense (“DOD”) health care provider; (2) a United States Department of Veterans Affairs (“VA”) health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider; or (5) a health care provider as defined in 29 CFR 825.125.**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee named in Section I has requested leave under the military caregiver leave provision of the FMLA to care for a family member who is a veteran. For purposes of FMLA military caregiver leave, a serious injury or illness means an injury or illness incurred by the servicemember in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the servicemember’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the servicemember became a veteran, and is:

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans’ Affairs Program of Comprehensive Assistance for Family Caregivers.

A complete and sufficient certification to support a request for FMLA military caregiver leave due to a covered veteran’s serious injury or illness includes written documentation confirming that the veteran’s injury or illness was incurred in the line of duty on active duty or existed before the beginning of the veteran’s active duty and was aggravated by service in the line of duty on active duty, and that the veteran is undergoing treatment, recuperation, or therapy for such injury or illness by a health care provider listed above. Answer fully and completely all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA military caregiver leave coverage. Limit your responses to the veteran’s condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

(Please ensure that Section I has been completed before completing this section. Please be sure to sign the form on the last page and return this form to the employee requesting leave (See Section I, Part A above). **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**)

**Part A: HEALTH CARE PROVIDER INFORMATION**

Health care provider’s name and business address:

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please indicate if you are:

- a DOD health care provider
- a VA health care provider
- a DOD TRICARE network authorized private health care provider
- a DOD non-network TRICARE authorized private health care provider
- other health care provider

**PART B: MEDICAL STATUS**

Note: If you are unable to make certain of the military-related determinations contained in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as, DOD Recovery Care Coordinator) or an authorized VA representative.

(1) The Veteran's medical condition is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating.
- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50% or higher, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave.
- A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment.
- An injury, including a psychological injury, on the basis of which the covered veteran is enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.
- None of the above.

(2) Is the veteran being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes  No

(3) Approximate date condition commenced: \_\_\_\_\_

(4) Probable duration of condition and/or need for care: \_\_\_\_\_

(5) Is the veteran undergoing medical treatment, recuperation, or therapy for this condition? Yes  No

If yes, please describe medical treatment, recuperation or therapy:

\_\_\_\_\_

**PART C: VETERAN'S NEED FOR CARE BY FAMILY MEMBER**

"Need for care" encompasses both physical and psychological care. It includes situations where, for example, due to his or her serious injury or illness, the veteran is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport him or herself to the doctor. It also includes providing psychological comfort and reassurance which would be beneficial to the veteran who is receiving inpatient or home care.

(1) Will the veteran need care for a single continuous period of time, including any time for treatment and recovery? Yes  No

If yes, estimate the beginning and ending dates for this period of time: \_\_\_\_\_

(2) Will the veteran require periodic follow-up treatment appointments? Yes  No

If yes, estimate the treatment schedule: \_\_\_\_\_

(3) Is there a medical necessity for the veteran to have periodic care for these follow-up treatment appointments?  
Yes  No

(4) Is there a medical necessity for the veteran to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes  No

If yes, please estimate the frequency and duration of the periodic care:

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Signature of Health Care Provider: \_\_\_\_\_ Date: \_\_\_\_\_

**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYEE REQUESTING LEAVE (As shown in Section I, Part "A" above).**

## TEXTBOOK SELECTION, ADOPTION AND PURCHASE

### Selection of Textbooks

The School Board may adopt textbooks, including print or electronic media, for student use that serve as the primary curriculum basis for a grade-level subject or course from the list of textbooks approved by the Board of Education. The School Board may also adopt books which are not on the state-adopted list in accordance with the Board of Education regulations.

In approving textbooks, the School Board

- appoints evaluation committees to review and evaluate textbooks,
- gives notice to parents that textbooks under consideration will be listed on the division's website and made available at designated locations for review by any interested citizens,
- creates opportunities for persons reviewing such textbooks to present their comments and observations to the School Board,
- creates procedures to ensure appropriate consideration of citizen comments and observations and
- establishes and makes known selection criteria.

### Textbooks Approved by the Board of Education

The Bath County School Board may either enter into written term contracts or issue purchase orders with publishers of textbooks approved by the Board of Education. Such written contracts or purchase orders are exempt from the Virginia Public Procurement Act (Va. Code § 2.2-4300 et seq.) The contract price shall not exceed the lowest wholesale price at which the textbook or textbooks involved in the contract are currently bid under contract anywhere in the United States. If, subsequent to the date of any contract entered into by the School Board, the prices of textbooks named in the contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than contracted in Virginia, the publisher shall grant the same reduction or terms to the School Board and give the School Board the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

Contracts and purchase orders with publishers of textbooks approved by the Board of Education shall require the publisher to furnish an electronic file of the textbook in the National Instructional Materials Accessibility Standards (NIMAS) format that will then be deposited in the National Instructional Materials Access Center (NIMAC) from which accessible versions of the particular textbook may be produced for students with print disabilities, as defined in 20 U.S.C. § 1474. Publishers shall deliver the NIMAS file of the textbook on or before the date of delivery of the regular text version.

Contracts and purchase orders with publishers of textbooks approved by the Board of Education for use in grades 6-12 shall allow for the purchase of printed textbooks, printed textbooks with electronic files, or electronic textbooks separate and apart from printed versions

of the same textbook. The School Board may purchase an assortment of textbooks in any of the three forms listed above.

The School Board shall order directly from the respective publishers the textbooks needed to supply the public schools in the school division. The publishers shall ship the textbooks to the School Board. The purchase price of such textbooks shall be paid directly to the publishers by the School Board.

#### Locally-Approved Textbooks

In approving textbooks that have not been approved by the Board of Education, the School Board will also include a correlation of the content to the Virginia Standards of Learning in the content area and an analysis of strengths and weaknesses of the textbook in terms of instructional planning and support when the textbooks pertain to Virginia Standards of Learning subjects.

The publishers of such textbooks shall

- provide the School Board with certification that the content of the textbook is accurate and
- sign an agreement with the School Board to correct all factual and editing errors found at its own expense.

The purchase of textbooks other than those approved by the Board of Education is not exempt from the Virginia Public Procurement Act.

Adopted: June 28, 2002

Revised: June 24, 2008; August 4, 2009; June 24, 2010; May 6, 2014; April 5, 2016

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-238, 22.1-241.

8 VAC 20-720-170.

Cross Refs.:	DJF	Purchasing Procedures	
	IIA	Instructional Materials	
	KQ	Commercial, Promotional, and Corporate	Sponsorships
		and Partnerships	

## STANDARDS OF LEARNING TESTS AND GRADUATION REQUIREMENTS

### I. Standards of Learning (SOL) Tests and Verified Units of Credit

The Board of Education has established educational objectives known as the Standards of Learning, which form the core of Virginia's educational program, and other education objectives, which together are designed to ensure the development of the skills that are necessary for success in school and in preparation for life in the years beyond.

The Bath County School Board has developed and implemented a program of instruction that is aligned to the Standards of Learning and that meets or exceeds the requirements of the Board of Education.

In kindergarten through eighth grade, where Standards of Learning (SOL) tests are required by the Board of Education, each student is expected to take the SOL tests. Students who are accelerated take the tests of the grade level enrolled or the tests for the grade level of the content received in instruction. No student takes more than one test in any content area in each year. Schools will use the SOL test results in kindergarten through eighth grade as part of a set of multiple criteria for determining the promotion or retention of students.

Each student in middle and secondary school will take all applicable end-of-course SOL tests following course instruction. Students who achieve a passing score on an end-of-course SOL test will be awarded a verified unit of credit in that course in accordance with 8 VAC 20-131-110. Students may earn verified credits in any courses for which end-of-course SOL tests are available. Middle and secondary schools may consider the student's end-of-course SOL test score in determining the student's final course grade.

The standard unit of credit for graduation is based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course. A standard unit of credit may also be awarded based on a waiver of the 140-clock hour requirement as provided in Policy IKFD Alternative Paths to Attaining Standard Units of Credit.

A verified unit of credit for graduation is based on a minimum of 140 clock hours of instruction, successful completion of the requirements of the course, and the achievement by the student of a passing score on the end-of-course SOL test for that course or additional tests as described below.

A student may also earn a verified unit of credit by the following methods:

- in accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic SOL course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the Board of Education.



- upon waiver of the 140-clock-hour requirement according to the Board of Education's Guidelines for Graduation Requirements; Local Alternative Paths to Standard Units of Credit and Policy IKFD Alternative Paths to Attaining Standard Units of Credit qualified students who have received a standard unit of credit will be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.

Students may also earn verified credits by taking alternative tests to the SOL assessment. Such tests may only be those approved by the Virginia Board of Education, and the student may earn verified credits only by achieving that score established by the Board of Education.

Participation in the SOL testing program by students with disabilities will be prescribed by provisions of their Individualized Education Program (IEP) or 504 Plan. All students with disabilities will be assessed with appropriate accommodations and alternate assessments where necessary.

All students identified as limited English proficient (LEP) will participate in the SOL testing program. A school-based committee will convene and make determinations regarding the participation level of LEP students. In kindergarten through eighth grade, limited English proficient students may be granted a one-time exemption from SOL testing in the areas of writing, science, and history and social science.

## II. Graduation Requirements

### A. Generally

The School Board will award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who earn the units of credit prescribed by the Board of Education, pass the prescribed tests, and meet such other requirements as are prescribed by the School Board and approved by the Board of Education.

### B. Types of Diplomas and Certificates

The Bath County School Board will award diplomas and certificates in accordance with state laws and regulations.

The requirements for a student to earn a diploma are those in effect when the student enters ninth grade for the first time.

Adopted: June 29, 2001

Revised: May 6, 2003; June 25, 2004; June 7, 2005; May 2, 2006; September 5, 2006;  
June 26, 2007; June 24, 2010; May 7, 2013; June 3, 2014; April 5, 2016

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Legal Ref.: Code of Virginia, 1950, as amended, §§ 22.1-253.13:1, 22.1-253.13:4.

8 VAC 20-131-30.

8 VAC 20-131-50.

8 VAC 20-131-110.

Guidelines for Graduation Requirements; Local Alternative Paths to Standard Units of Credit (Virginia Board of Education Oct. 2015)

Cross Refs.:	IAA	Notification of Learning Objectives
	IKFA	Locally Awarded Verified Credits
	IKFD	Alternative Paths to Attaining Standard Units of Credit

## RETAKE SOL ASSESSMENTS

Students in kindergarten through grade 8 are not required to retake Standards of Learning (SOL) tests unless they are retained in grade and have not previously passed the test or they are placed in a remediation recovery program developed by the School Board. Students in high school are not required to retake end-of-course SOL tests unless the student previously failed the course and the test, or the student needs to earn verified credit for graduation.

With such funds as are appropriated by the General Assembly, the Board of Education will provide opportunities for students who meet criteria adopted by that Board to have an expedited retake of a SOL test to earn verified credit.

Under the criteria established by the state Board, the student must

- need the test for verified credit; and
- have passed the course associated with the test, and have met one of the following
  - failed the test by a narrow margin, or
  - failed the test by any margin and have extenuating circumstances that would warrant retesting, or
  - did not sit for the regularly scheduled test for legitimate reasons.

For purposes of these criteria, “narrow margin” means a scaled score of 375-399. The division superintendent will be responsible for making the determination of what constitutes “extenuating circumstances” and “legitimate reasons” for purposes of establishing eligibility for an expedited retest of an end-of-course SOL assessment.

Adopted: April 2, 2001

Revised: June 1, 2004; May 7, 2013; April 5, 2016

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Legal Refs.: 8 VAC 20-131-30.

8 VAC 20-131-110.

Guidance Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public School in Virginia 8 VAC 20-131 (Virginia Board of Education as amended January 13, 2011).

Cross Refs.:	IKF	Standards of Learning Tests and Graduation Requirements
	IKG	Remediation Recovery Program
	IL	Testing Programs

## SECTION 504 NONDISCRIMINATION POLICY AND COMPLAINT PROCEDURES

The Bath County School Board does not discriminate against individuals on the basis of disability. The Bath County School Board has established this policy as a way to provide prompt and impartial review of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. This policy provides an optional resolution procedure for a complainant. This procedure is not a prerequisite before a complainant may directly pursue any other remedy available under state or federal law. However, the policy of Bath County School Board is for students, parents/guardians and employees to have the opportunity to make concerns known to the School Board and for the School Board to have the opportunity to respond to and resolve concerns as rapidly as practicable.

The goal of these procedures is to protect the substantive rights of interested persons, meet appropriate due process standards, assure School Board compliance with Section 504 of the Rehabilitation Act of 1973 and provide a prompt, equitable and impartial resolution of complaints alleging a violation of Section 504.

Any student or any parent or guardian of a student may be a complainant and may file a formal or informal grievance as provided below.

### **A. FORMAL PROCEDURE**

#### **1. Filing a Complaint**

Any complainant should submit a complaint alleging discrimination as soon as possible to the Compliance Officer or to any other school or school division staff. The complaint shall be submitted within 45 school days of the alleged discrimination. Any employee who has knowledge of conduct which may constitute discrimination shall immediately report such conduct to the Compliance Officer, the employee's supervisor, or to any other school or school division staff. Any employee who receives a complaint under this policy shall immediately forward the complaint to the Compliance Officer.

The complainant should use the "Complaint of Discrimination" form (see end of this policy) to make a complaint of discrimination. However, oral complaints shall also be accepted. The complaint should be filed with the school principal, other school or school division staff, or the Compliance Officer. School or school division staff receiving a complaint of discrimination shall forward it to the school principal; who shall immediately forward the complaint of discrimination to the Compliance Officer. Any complaint that involves the Compliance Officer shall be reported to the superintendent. Any complaint that involves the superintendent shall be reported to the School Board Chair.

The complaint and the identity of the complainant, the individual who is the subject of the complaint (if other than the complainant), and the persons allegedly responsible for the discrimination will not be disclosed except as required by law or policy, as necessary to fully investigate the complaint or as authorized by the complainant.

## 2. Investigation

Upon receipt of a report or complaint of discrimination, the Compliance Officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school staff or a third party designated by the school division. The investigation shall be completed as soon as practicable, but not later than 15 school days after receipt of the complaint of alleged discrimination by the Compliance Officer unless the extension below is exercised. Within 3 school days of receiving the complaint, the Compliance Officer shall send written notice that the complaint has been received to the complainant and the person or persons allegedly responsible for the discrimination (the accused).

Also upon receiving the complaint, the Compliance Officer shall determine whether interim measures should be taken pending the outcome of the investigation. If the Compliance Officer determines that more than 15 school days will be required to investigate the complaint, the Compliance Officer will notify the complainant and the persons allegedly responsible for the discrimination of the reasons for the extended investigation and of the date by which the investigation is projected to be concluded, which will be no longer than an additional 15 school days. The investigation may consist of personal interviews with the complainant, the persons allegedly responsible for the discrimination, and any others who may have knowledge of the alleged discrimination or the circumstances giving rise to the complaint. The investigation may also include the inspection of any documents or information deemed relevant by the investigator. The complainant and the accused shall have the right to identify witnesses and other relevant information as well as rebut evidence presented by opposing parties. The school division shall take necessary steps to protect the complainant and others pending the completion of the investigation.

Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

The Compliance Officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any. The Compliance Officer's written report, and all written notices sent pursuant to this policy shall be maintained and distributed in accordance with the Family Educational Rights and Privacy Act. The report shall be issued to the superintendent, the complainant and the accused within 20 school days of receipt of the complaint, unless additional time was utilized for the investigation in which case the report shall be issued within 35 school days of receipt of the complaint.

3. Action by the Superintendent

Within 10 school days of receiving the Compliance Officer's report, the superintendent or superintendent's designee shall issue a decision regarding:

(1) whether this policy was violated and, if so (2) what action, if any, will be taken. This decision must be provided in writing to the complainant and the accused. If the superintendent determines that discrimination occurred, the school division shall take prompt, appropriate action to address and remedy the harm and prevent any recurrence. Such action may include discipline up to and including recommending that a student be expelled or that an employee be discharged.

4. Appeal

If the superintendent or designee determines that no discrimination occurred, the complainant may appeal this determination to the School Board within 5 calendar days of receiving the decision. Notice of appeal must be filed with the superintendent, who shall forward the Compliance Officer's report and any documentation or information deemed relevant by the Compliance Officer during the course of the investigation to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may require oral or written argument from the complainant, the person or persons accused of discrimination, the superintendent, and any other individual it deems appropriate. An extension of the 30 calendar day time limit may occur if necessary as determined by the School Board Chair up to an additional 10 calendar days. The decision of the School Board shall be in writing and shall be provided to the complainant and the accused.

If the superintendent or designee determines that discrimination occurred and discipline is imposed, the disciplined person (i.e. student or employee) may appeal the disciplinary sanction in accordance with existing School Board policies and regulations.

5. Compliance Officer

The School Board shall at all times designate a Compliance Officer responsible for identifying, preventing and remedying discrimination as well as receiving complaints under this Policy. The name and contact information for the Compliance Officer shall be posted on the Division's website at all times. The Compliance Officer may be contacted at P. O. Box 67, Warm Springs, VA 24484, (540) 839-2722.

The Bath County School Board's Compliance Officer shall receive training and shall be knowledgeable about the requirements of Section 504 in order to impartially and equitably resolve complaints and ensure compliance with the law. In addition, the Compliance Officer shall:

- receive reports and complaints of discrimination,
- conduct or oversee the investigation of any alleged discrimination,
- assess the training needs of the school division in connection with this policy and
- arrange necessary training to achieve compliance with this policy.

## **B. INFORMAL PROCEDURE**

If the complainant and the persons allegedly responsible for the discrimination agree, the school principal, designee or the Compliance Officer may arrange for them to resolve the complaint informally with the assistance of a counselor, teacher or other school or school division staff.

If the complainant and the persons allegedly responsible for the discrimination agree to attempt to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the above formal procedures.

If the complaint is resolved informally, the counselor, teacher or other school or school division staff shall notify the school principal of the resolution. The school principal shall notify the complainant, the persons allegedly responsible for the discrimination and the Compliance Officer in writing that the complaint has been resolved informally.

## **C. RETALIATION**

Retaliation against students, school staff or school division staff who report discrimination or participate in the related proceedings is prohibited. The school division shall take appropriate action against any student or employee who retaliates against another student or employee who reports alleged discrimination or participates in related proceedings.

## **D. FALSE CHARGES**

Students, school staff or school division staff who make false charges of discrimination shall be subject to disciplinary action.

Adopted: June 27, 2000  
Revised: June 23, 2011; April 5, 2016

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Legal Ref.: 29 U.S.C. § 794  
34 C.F.R. Part 104.7(b)

Cross Ref: GCPD Professional Staff Discipline  
JB Equal Educational Opportunities/Nondiscrimination  
JFC-R Standards of Student Conduct  
JGD/JGE Student Suspension/Expulsion  
JO Student Records



**COMPLAINT OF DISCRIMINATION**

Name of Complainant: \_\_\_\_\_

Student's School and Class: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number(s): \_\_\_\_\_

Name(s) of Parent/Legal Guardian: \_\_\_\_\_

Address(es): \_\_\_\_\_

Email address(es): \_\_\_\_\_ Phone Number(s): \_\_\_\_\_

Dates of Alleged Discrimination: \_\_\_\_\_

Names of the persons you believe discriminated against you or others:

Please describe the disability that forms the basis of the complaint.

Please describe in detail the incidents of alleged discrimination, including where and when the incidents occurred. Please name any witnesses that may have information regarding the alleged discrimination. Attach additional pages if necessary.

Please describe any past incidents that may be related to this complaint.

Please identify any attempts you have made to discuss or resolve this issue with any school division staff, including the results of those discussions.

Please provide your suggestions about how the issue can be resolved.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

Signature of Complainant \_\_\_\_\_ Date \_\_\_\_\_

Complaint Received By: \_\_\_\_\_  
Compliance Officer \_\_\_\_\_ Date \_\_\_\_\_

## STUDENT SUSPENSION/EXPULSION

### I. DEFINITIONS

As used in this Policy,

“Alternative education program” includes night school, adult education, or another education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

“Destructive device” means (1) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (2) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in Va. Code § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (3) any combination of parts either designed or intended for use in converting any device into any destructive device described herein and from which a destructive device may be readily assembled. “Destructive device” does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in subsection G of Va. Code § 18.2-308.2:2.

“Disruptive behavior” means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

“Exclusion” means a Virginia school board’s denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than thirty calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

“Expulsion” means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

“Firearm” means (1) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material; (2) the frame or receiver of any such weapon; or (3) any unloaded firearm in a closed container. “Firearm” does not include any pneumatic gun as defined in this Policy.

“Long-term suspension” means any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

“One year” means 365 calendar days as required in federal regulations.

“Pneumatic gun” means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

“School property” means any real property owned or leased by the School Board or any vehicle owned or leased by the School Board or operated by or on behalf of the School Board.

“Short-term suspension” means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed ten school days.

"Superintendent's designee" means a 1) trained hearing officer or 2) professional employee in the administrative offices of the school division who reports directly to the superintendent and who is not a school-based instructional or administrative employee.

## II. SUSPENSIONS AND EXPULSIONS OF STUDENTS GENERALLY

Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no case may sufficient cause for suspension include only instances of truancy.

Any student for whom the superintendent has received a report pursuant to Va. Code § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of Va. Code § 16.1-260 may be suspended or expelled from school attendance.

The authority of teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of this Policy.

## III. SHORT-TERM SUSPENSIONS

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version shall be given as soon as is practical thereafter.

Upon suspension of any pupil, the principal, assistant principal or teacher responsible for such suspension reports the facts of the case in writing to the superintendent or superintendent's designee and the parent of the pupil suspended. The superintendent or superintendent's designee reviews forthwith the action taken by the principal, assistant principal or teacher upon a petition for such review by any party in interest and confirms or disapproves such action based on an examination of the record of the pupil's behavior.

The decision of the superintendent or superintendent's designee may be appealed to the School Board.

Any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days includes notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program or alternative education program or educational option, which is not a part of the educational program offered by the school division, are borne by the parent of the student.

#### IV. LONG-TERM SUSPENSION

A pupil may be suspended from attendance at school for more than ten days after written notice is provided to the pupil and his parent of the proposed action and the reasons therefore and of the right to a hearing before the School Board.

The written notice of a suspension for more than ten days includes notification of the length of the suspension and provides information concerning the availability of community-based educational, alternative education or intervention programs. Such notice also states that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the School Board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension is borne by the parent of the student.

Nothing herein shall be construed to prohibit the School Board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the School Board for the term of such suspension.

## V. EXPULSION

### A. Generally

Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the School Board in accordance with the regulations of the School Board. The School Board confirms or disapproves of the proposed expulsion regardless of whether the pupil has exercised the right to a hearing.

The written notice given to the pupil and his parent includes notification of the length of the expulsion and provides information to the parent of the student concerning the availability of community-based educational, training and intervention programs. The notice also states whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the School Board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion is borne by the parent of the student.

Nothing in this Policy shall be construed to prohibit the School Board from permitting or requiring students expelled pursuant to this Policy to attend an alternative education program provided by the School Board for the term of such expulsion.

If the School Board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice also advises the parent of such student that the student may petition the School Board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

The School Board establishes, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule is designed to ensure that any initial petition for readmission will be reviewed by the School Board or the superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the superintendent denies such petition, the student may petition the School Board for review of such denial.

## B. Conduct Giving Rise to Expulsion

Recommendations for expulsions for actions other than those specified below are based on consideration of the following factors:

- the nature and seriousness of the conduct;
- the degree of danger to the school community;
- the student's disciplinary history, including the seriousness and number of previous infractions;
- the appropriateness and availability of an alternative education placement or program;
- the student's age and grade level;
- the results of any mental health, substance abuse or special education assessments;
- the student's attendance and academic records; and
- other appropriate matters.

No decision to expel a student shall be reversed on the grounds that such factors were not considered. Nothing in this subsection precludes the School Board from considering any of the factors listed above as "special circumstances" for purposes of expulsions discussed in the following subsections.

### Firearms

The School Board shall expel from school attendance for a period of not less than one year any student whom the School Board has determined to have possessed a firearm on school property or at a school-sponsored activity as prohibited by Va. Code § 18.2-308.1, or to have possessed a firearm or destructive device as defined in this policy, a firearm muffler or firearm silencer or a pneumatic gun as defined in this policy on school property or at a school-sponsored activity. A school administrator, pursuant to School Board policy, or the School Board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. The School Board may promulgate guidelines for determining what constitutes special circumstances. In addition, the School Board may, by regulation, authorize the superintendent or superintendent's designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Nothing in this policy shall be construed to require a student's expulsion regardless of the facts of the particular situation.

The exemptions set out in Va. Code § 18.2-308 regarding concealed weapons apply, *mutatis mutandis*, to the provisions of this Policy. The provisions of this policy do not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

## Drug Offenses

The School Board shall expel from school attendance any student whom the School Board has determined to have brought a controlled substance, imitation controlled substance or marijuana as defined in Va. Code § 18.2-247 onto school property or to a school-sponsored activity. The School Board may, however, determine, based on the facts of the particular case that special circumstances exist and another disciplinary action is appropriate. In addition, the School Board may, by regulation, authorize the superintendent or the superintendent's designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Nothing in this policy shall be construed to require a student's expulsion regardless of the facts of the particular situation.

### C. Procedure for School Board Hearing

The procedure for the School Board hearing is as follows:

- The School Board determines the propriety of attendance at the hearing of persons not having a direct interest in the hearing. The hearing is private unless otherwise specified by the School Board.
- The School Board may ask for opening statements from the principal or his representative and the student or his parent(s) (or their representative) and, at the discretion of the School Board, may allow closing statements.
- The parties then present their evidence. Because the principal has the ultimate burden of proof, he presents his evidence first. Witnesses may be questioned by the School Board members and by the parties (or their representative). The School Board may, at its discretion, vary this procedure, but it shall afford full opportunity to both parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination provided, however, that the School Board may take the testimony of student witnesses outside the presence of the student, his parent(s) and their representative if the School Board determines, in its discretion, that such action is necessary to protect the student witness.
- The parties shall produce such additional evidence as the School Board may deem necessary. The School Board is the judge of the relevancy and materiality of the evidence.
- Exhibits offered by the parties may be received in evidence by the School Board and, when so received, are marked and made part of the record.
- The School Board may, by majority vote, uphold, reject or alter the recommendations.
- The School Board transmits its decision, including the reasons therefor, to the student, his parent(s), the principal and superintendent.

## VI. ALTERNATIVE EDUCATION PROGRAM

The School Board may require any student who has been (1) charged with an offense relating to the laws of Virginia, or with a violation of School Board policies, on weapons, alcohol, or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent pursuant to Va. Code § 16.1-260.G; (2) found guilty or not innocent of an offense relating to Virginia's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent pursuant to Va. Code § 16.1-260.G; (3) found to have committed a serious offense or repeated offenses in violation of School Board policies; (4) suspended pursuant to Va. Code § 22.1-277.05; or (5) expelled pursuant to Va. Code § 22.1-277.06, 22.1-277.07, or 22.1-277.08 or subsection B of Va. Code § 22.1-277, to attend an alternative education program. The School Board may require such student to attend such programs regardless of where the crime occurred. The School Board may require any student who has been found to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of School Board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

A principal or principal's designee may impose a short-term suspension, pursuant to Va. Code § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in Va. Code § 16.1-260.G, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

As used herein, "charged" means that a petition or warrant has been filed or is pending against a pupil.

## VII. REPORTING

A. Except as may otherwise be required by federal law, regulation or jurisprudence, reports are made to the superintendent and to the principal or principal's designee on all incidents involving

- (1) the assault, or assault and battery, without bodily injury, of any person on a school bus, on school property or at a school-sponsored activity;
- (2) the assault and battery which results in a bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property or at a school-sponsored activity;
- (3) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
- (4) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity;



- (5) the illegal carrying of a firearm as defined in Va. Code § 22.1-277.07 onto school property;
  - (6) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85 or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1, or chemical bombs, as described in Va. Code § 18.2-87.1, on a school bus, on school property or at a school-sponsored activity;
  - (7) any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property or school buses;
  - (8) the arrest of any student for an incident occurring on a school bus, on school property or at a school sponsored activity, including the charge therefor; and
  - (9) any illegal possession of weapons, alcohol, drugs or tobacco products.
- B. The superintendent and the principal or principal's designee receive reports made by local law enforcement authorities on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act, Va. Code § 54.1-3400 et seq., and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in the clauses (1) through (8) of subsection VII.A. of this policy, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. A superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of Va. Code § 16.1-260 reports such information to the principal of the school in which the juvenile is enrolled.
- C. The principal or principal's designee submits a report of all incidents required to be reported pursuant to subsection VII.A.(1-8) of this policy to the superintendent. The superintendent annually reports all such incidents to the Department of Education.
- In submitting reports of such incidents, principals and superintendents accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection VII.B. of this policy.
- D. The principal or principal's designee also notifies the parent of any student involved in an incident required by this subsection to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice relates to only the relevant student's involvement and does not include information concerning other students.
- E. Whenever any student commits any reportable incident as set forth in this subsection, such student is required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or superintendent's designee.

- F. Except as may otherwise be required by federal law, regulation or jurisprudence, a principal immediately reports to the local law-enforcement agency any act enumerated in clauses (2) through (7) of subsection VII.A. of this policy that may constitute a criminal offense and may report to the local law enforcement agency any incident described in clause (1) of subsection VII.A. of this policy.

In addition, except as may be prohibited by federal law, regulation or jurisprudence, the principal also immediately reports any act enumerated in clauses (2) through (5) of subsection VII.A of this policy that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal reports that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

- G. For purposes of this section, “parent” or “parents” means any parent, guardian or other person having control or charge of a child.

#### VIII. RE-ADMISSION OF SUSPENDED AND/OR EXPELLED STUDENTS

Any student who has been suspended from a school of this division is not eligible to attend any other school within the division until eligible to return to his or her regular school.

Any student who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance in Bath County Schools, in accordance with Policy JEC School Admission. In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the School Board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to Va. Code § 22.1-277.06. The School Board shall not impose additional conditions for readmission to school.

No suspended student is admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student’s behavior, unless the school principal or principal’s designee determines that re-admission, without parent conference, is appropriate for the student.

If the parent fails to comply with this policy or Policy JEC School Admission, the School Board may ask the Juvenile and Domestic Relations Court to proceed against the parent for willful and unreasonable refusal to participate in efforts to improve the student’s behavior.

Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the School Board or superintendent or superintendent's designee, as the case may be at the relevant hearing, the student may re-petition the School Board for admission. If the petition for admission is rejected, the School Board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the School Board for admission.

The School Board may permit students excluded pursuant to this subsection to attend an alternative education program provided by the School Board for the term of such exclusion.

## IX. DISCIPLINING STUDENTS WITH DISABILITIES

Students with disabilities are disciplined in accordance with Policy JGDA Disciplining Students with Disabilities.

Adopted: March 26, 2002

Revised: June 3, 2003; June 25, 2004; June 23, 2005; September 5, 2006; January 2, 2007;  
June 25, 2009; March 23, 2011; June 24, 2013; April 8, 2015; April 5, 2016

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Legal Refs.: 20 U.S.C. § 7151.

Code of Virginia, 1950, as amended, §§ 15.2-915.4, 16.1-260, 18.2-119, 18.2-308.1, 18.2-308.7, 18.2-308.2:2, 22.1-200.1, 22.1-254, 22.1-276.01, 22.1-276.2, 22.1-277, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, 22.1-277.07:1, 22.1-277.08, 22.1-277.2, 22.1-277.2:1, 22.1-279.3:1.

8 VAC 20-560-10.

Cross Refs.:	IGBH	Alternative School Programs
	JEC	School Admission
	JFC-R	Standards of Student Conduct
	JFCD	Weapons in School
	JGDA	Disciplining Students with Disabilities
	JGDB	Discipline of Students with Disabilities for Infliction of Serious Bodily Injury

## STUDENT SUSPENSION/EXPULSION

### Grounds for Suspension

The following violations of the Code of Student Conduct and School Board policy are grounds for suspension:

All Standards of Student conduct listed in Regulation JFC-R of the Policy Manual.  
Other misconduct may also be grounds for suspension.

The decision of the superintendent or his/her designee regarding a suspension for 10 days or less may be appealed to the School Board.

In the case of a suspension for more than ten days, if the School Board's regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full School Board. Such appeal shall be decided by the School Board within 30 days. If the regulations of the School Board provide for a hearing by a committee of the School Board, the regulations shall also provide that such committee may confirm or disapprove the suspension. If the committee's decision is not unanimous, the student or his parent may appeal the committee's decision to the full School Board. Such appeal shall be decided by the School Board within 30 days.

### Grounds for Expulsion

The following violations of the Code of Student Conduct and School Board policy are grounds for expulsion:

"Firearms" (as defined in Policy JFCD) possession or use, or possession of a controlled substance, imitation controlled substance or marijuana, as defined in Policy JFCF. Other misconduct may be grounds for expulsion.

In the case of expulsion, the School Board shall confirm or disapprove the proposed expulsion regardless of whether the pupil has exercised the right to a hearing.

Adopted: March 26, 2002

Revised: May 7, 2013; April 5, 2016

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## SCHOOL MEALS AND SNACKS

The Bath County School Board recognizes that students need adequate, nourishing food in order to learn, grow, and maintain good health.

### Generally

To reinforce the division's nutrition education program, foods sold during regular school hours on school premises will be

- carefully selected so as to contribute to students' nutritional well-being and the prevention of disease;
- prepared in ways that will appeal to students, retain nutritive quality, and foster lifelong healthful eating habits; and
- served in age-appropriate quantities and at reasonable prices.

The Bath County School Board promotes high-quality school meals and snacks by

- involving students in the selection, tasting, and marketing of healthy foods and beverages that appeal to students;
- providing a variety of food options, such as fruits, vegetables, whole grains, and dairy foods, which are low in fat and added sugars;
- offering a variety of healthy choices that appeal to students, including cultural and ethnic favorites;
- restricting student access to unhealthy foods in vending machines, school stores, and other venues that compete with healthy school meals; and
- ensuring that healthy snacks and foods are provided in vending machines, school stores, and other venues within the division's control. The healthy options should cost the same or less than unhealthy alternatives.

The Bath County School Board strives to provide an environment conducive to good health by

- allowing an adequate amount of time and space for students to eat school meals;
- scheduling lunch periods at reasonable hours around midday;
- ensuring that drinking fountains are operable, clean, and convenient for use throughout the school day;
- offering extracurricular physical activity programs, such as physical activity clubs, intramural programs, or interscholastic athletics;
- discouraging the promotion and advertising of unhealthy foods;
- using non-food items rather than food items such as candy, cakes, soda, and foods high in fat, as incentives and rewards for good behavior or academic performance; and
- encouraging parents to support the division's nutrition education efforts by considering nutritional quality when selecting any snacks which they may donate for occasional class parties.

The Bath County School Board supports nutrition education and physical education by

- ensuring that qualified nutrition education and physical education specialists focus on knowledge and skill development so students are able to learn and adopt healthy eating and physical activity behaviors;
- offering nutrition education in the school dining area(s) and in the classroom, with coordination between food service staff and teachers; and
- eliminating any stigma attached to, and preventing public identification of, students who are eligible for free and reduced-price meals.

## Meals and Snacks

Meals and snacks offered as part of the National School Lunch Program or the School Breakfast Program meet, at a minimum, the requirements established by state and federal law and regulation.

Schools make potable water available and accessible without restriction to children at no charge in the place(s) where lunches are served during the meal service.

## Competitive Foods

### Definitions

“Competitive food” means all food and beverages other than meals reimbursed under programs authorized by the National School Lunch Act and the Child Nutrition Act of 1966 available for sale to students on the school campus during the school day.

“School campus” means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

“School day” means the period from the midnight before to 30 minutes after the end of the official school day.

All competitive food sold to students on the school campus during the school day meets the nutrition standards specified by federal and state law and regulation.

Each school may conduct five (5) school-sponsored fundraisers per school year during which food that does not meet the nutrition guidelines for competitive foods may be available for sale to students.

The Bath County School Board is responsible for maintaining records that document compliance with this policy. Those records include receipts, nutrition labels and/or product specifications for the competitive food available for sale to students.

Adopted: June 6, 2012  
Revised: December 2, 2014; April 5, 2016

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Legal Refs: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-207.4.

Virginia Board of Education, A Resolution to Establish and Define Exemptions for School-Sponsored Fundraisers Pending Incorporation in the Proposed Regulations Governing Nutritional Guidelines for Competitive Foods Available for Sale in the Public Schools (Nov. 19, 2015).

Cross Refs:	EFB	Free and Reduced Price Food Services	
	IGAE/IGAF	Health Education/Physical Education	
	JHCF	Student Wellness	
	JL	Fund Raising and Solicitation	
	KQ	Commercial, Promotional and Corporate	Sponsorships
		and Partnerships	