


ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

To: Employees

From: Jessica S. Cuches, Esq. 
Executive Director of Human Resources

Subject: FMLA Changes

Date: April 29, 2021

Copies to: AEL
AFSCME
SAAAAC
TAAAC

Effective **July 1, 2021**, AACPS will significantly change the way that leave is administered under the [Family and Medical Leave Act of 1993](#) (“FMLA”). These changes may directly affect the amount of leave that is available to employees for occurrences such as childbirth, one’s own illness, or the illness of a close family member. Please carefully examine the “Changes” outlined below and the examples that illustrate how you might be affected.

OVERVIEW

On September 10, 2019, the U.S. Department of Labor issued an [Opinion Letter](#) in which it clarified that employers cannot delay the designation of FMLA leave. Specifically, “once an employer has enough information that an employee’s leave request qualifies as FMLA leave, the employer must designate the leave as FMLA.”

In summary, AACPS cannot permit employees who request leave for an FMLA-qualifying condition to use other leave types *before* using FMLA. AACPS and the four labor unions (AEL, AFSCME, SAAAAC, and TAAAC) addressed this matter during Fiscal Year 2019-2020 negotiations.

CHANGES

1) Designation of Leave:

AACPS will designate leave as FMLA upon notice of an FMLA-qualifying event.

Effect:

Whereas employees were previously permitted to use paid leave before taking FMLA, paid leave and FMLA will now run simultaneously from the first day of the employee’s absence. If an employee requests paid leave of any type (e.g., sick, annual, sick leave bank, etc.) for an FMLA-qualifying event (e.g., childbirth, a serious health condition, or the serious health condition of a qualifying family member), FMLA leave will run concurrently with that paid leave type.

For example, an employee who had 20 days of accrued paid leave available previously may have been able to use all 20 days of leave, and then take 60 days of unpaid FMLA. This would result in 80 days of leave for an FMLA-qualifying event. The same employee will now only have 60 days available because FMLA and sick leave will run at the same time starting on the first day of absence.

2) Substitution of Paid Leave

AACPS will require employees to substitute accrued sick leave for unpaid FMLA leave.

Effect:

Employees cannot choose to use unpaid FMLA first and use sick leave afterward. If an employee has accrued sick leave available, and the employee is approved to use FMLA for a qualifying event, AACPS will run the employee's accrued sick leave concurrently with FMLA.

For example, an employee who had 20 days of sick leave available previously may have been able to save their sick leave and use 60 days of unpaid leave for a qualifying event. After exhausting their 60 days of FMLA, they may have chosen to use their 20 days of paid sick leave. They would have used 80 days of leave for the FMLA-qualifying event. Now, the same employee would be required to start using their sick leave at the same time as their FMLA. They would only have 60 days of leave for the FMLA-qualifying event.

ADDITIONAL INFORMATION

Employees and timekeepers will receive more information about related changes to time and attendance protocols and leave request procedures. Employees who will need leave on or after July 1, 2021, should consult their Leave Specialist on or about June 1, 2021, to discuss their options. It is highly recommended that employees use Employee Self Service to assess their leave balances before talking with the Leave Specialists.

JSC/AS/sp