



**FAMILY AND MEDICAL LEAVE ACT  
COMPLIANCE  
JUNE 21, 2022**

Board of Education of Baltimore County Public Schools  
Office of Internal Audit

The purpose of the review is to determine whether Baltimore County Public Schools is compliant with federal Family and Medical Leave Act regulations.

Refer to Exhibit B for the report distribution list.

## **BACKGROUND**

The Office of Internal Audit (Internal Audit) received EthicsPoint case number 2022-074 that contained various concerns related to the Division of Human Resources. The case was referred to management for review and disposition. Management evaluated the allegation details and requested that Internal Audit determine if BCPS is compliant with the U.S. Department of Labor Family and Medical Leave Act (FMLA) regulations.

### **FMLA**

FMLA entitles eligible employees of a covered employer to take unpaid, job protected leave for specific family and medical reasons, as well as maintain group health insurance coverage.

Baltimore County Public Schools (BCPS), as an elementary and secondary school system, is covered by FMLA, therefore, BCPS is required to provide FMLA leave to its employees.

Employees must meet the following criteria to be eligible for protected leave:

- Worked for BCPS for at least 12 months, and
- Worked for BCPS for at least 1250 hours in the 12 months before leave is taken.

Employees may request to take up to 12 weeks, continuous or intermittent, of FMLA leave in any 12-month period:

- To take care of spouse, child or parent with a serious health condition or employee's serious health condition that prevents the ability to work.
- For military family leave for specified reasons related to certain military deployments. In addition, employees may take up to 26 weeks of FMLA leave to care for a covered servicemember with a serious injury or illness in a single 12-month period.
- For expansion of your family, for the birth of a child and the bonding with the newborn child. This also includes the placement of a child for adoption or foster care and to bond with that child.

Employees who request FMLA leave must submit the application, and all required documentation, to the Office of Employee Absence and Risk Management (OEARM). Even though FMLA leave is unpaid, job protected leave, BCPS employees may choose to have FMLA leave time run concurrently with other paid leave.

## **REVIEW PERIOD**

Internal Audit reviewed FMLA requests for the period July 1, 2021 through April 30, 2022.

## **METHOD**

We completed our review through:

***a. Inquiry of BCPS personnel:***

- Chief Human Resources Officer

***b. Review of documentation:***

- FMLA Employee Guide
- FMLA Eligibility Process, FMLA Designation Process, FMLA Process Timeline, and FMLA Return to Work Process

- BCPS Employee Guide to Leave Information and Supervisor Guide for Employees on Leave
- BCPS FMLA Calculator
- BCPS FY2021-2022 Approved Leaves – MASTER WORKING FILE

### **LIMITATIONS**

OEARM does not have adequate processes in place for the approval, tracking and monitoring for FMLA. Specifically, we noted the following:

- There is no current tracking process for employees on FMLA.
- OEARM is unable to properly calculate the FMLA leave used to determine whether the employee is eligible for the 12 weeks FMLA leave approval.
- Over 100 paper files created prior to January 2022, have not been uploaded into SharePoint and likely not tracked in the Master Working File.
- OEARM is concerned that the Master Working File may contain errors as mistakes to the Excel file may alter the file and OEARM may not have completely addressed all data that was missing after the recovery.
- OEARM is reliant on employees submitting FMLA requests, as there is no current tracking of employee's absences to report to OEARM.

### **RESULTS**

Internal Audit could not determine if BCPS is compliant with federal Family and Medical Leave Act regulations due to the limitations stated above.

### **SUMMARY OF RISKS**

We identified potential risks related to the lack of proper controls and processes over the administration of FMLA:

- Increased exposure and liability costs to BCPS
- BCPS incurs unnecessary costs by providing additional benefits and leave above FMLA requirements.
- Loss of productivity of employees

### **RISK RATING**

Based on the nature of this result, we issued an overall risk rating of UNSATISFACTORY for the administration of FMLA. An unsatisfactory rating indicates that the FMLA controls and processes fail to mitigate the potential risks identified and are seriously flawed in design or operation.

### **RECOMMENDATION**

The BCPS OEARM must continue to work to obtain a complete list of employees that are on FMLA. In addition to compiling and maintaining a master list, OEARM should implement adequate controls and processes for the approval, tracking, and monitoring of FMLA leave.

**MANAGEMENT'S ACTION PLAN**

Management provided a corrective action plan to address the findings/recommendations that outlines the action planned, persons responsible, and completion dates. Please refer to **Exhibit A** for the action plan.

# **Exhibit A**

## **Family and Medical Leave Act Compliance**

### **Management's Action Plan**

Finding	Action Planned	Persons Responsible	Anticipated Date of Completion	Date of Completion
There is not current tracking process for employees on FMLA.	Developed standard operating procedures and guides for the proper administration of FMLA.	OEARM	Completed	Mar-22
	Developed return to work processes, something that BCPS had not historically tracked	OEARM	Completed	Mar-22
	Developed automatic workflows so that emails and letters can automatically be generated to provide information to supervisors and employees about the status of leaves matters.	OEARM	Completed	Mar-22
	Trained new employees on FML and leaves processes.	OEARM	Completed	Mar-22
	Updated and maintaining the master spreadsheet to reflect FMLA occurrences, etc. thereby allowing the ability of tracking FML utilization, RTW dates, leave type, etc.	OEARM	Ongoing	Ongoing
OEARM Is unable to properly calculate the FMLA leave used to determine whether the employee is eligible for the 12-weeks FMLA leave approval.	Developed a calculator to determine whether employees are eligible for FML.	OEARM	Completed	Mar-22
	Worked with the Office of Payroll and DoIT on the proper coding of FML matters.	OEARM	In Progress	Ongoing
	Updated the master spreadsheet to reflect FMLA occurrences, etc. thereby allowing the ability of tracking FML utilization, RTW dates, leave type, etc.	OEARM	Completed	Mar-22
Over 100 paper files created prior to January 2022, have not been uploaded into SharePoint and likely not tracked in the Master Working File.	Programmed paper faxes to upload to an email box in pdf format to provide for better tracking of the receipt of faxed applications.	OEARM	Completed	Mar-22
	Updated and maintaining the master spreadsheet to reflect FMLA occurrences, etc. thereby allowing the ability of tracking FML utilization, RTW dates, leave type, etc.	OEARM	Ongoing	Ongoing
OEARM is concerned that the Master Working File may contain errors as mistakes to the Excel file may alter the file and OEARM may not have completely addressed all data that was missing after the recovery.	Investigated database systems and options to provide for proper tracking of files and cases by multiple employees.	OEARM	In Progress	In Progress (reviewing HRIS systems)
OEARM is reliant on employees submitting FMLA requests, as there is no current tracking of employee's absences to report to OEARM.	Developed web-based forms for employees to apply for FML and submit documentation to promote better tracking of files.	OEARM	Completed	Mar-22
	Developed resource guides and information for employees and supervisors to understand leaves processes.	OEARM	Completed	Mar-22
	Updated the leaves website to clearly set forth leaves processes.	OEARM	Completed	Mar-22
	Updated and created new form letters to communicate leaves eligibility, designations, etc.	OEARM	Completed	Mar-22

# Exhibit B

## Family and Medical Leave Act Compliance

### Report Distribution

Title	Title	Location
Superintendent		BCPS
General Counsel		Office of Law
Chief of Staff		BCPS
Chief Auditor		Office of Internal Audit