



## Family and Medical Leave Policy

### I. PURPOSE

The purpose of this document is to describe the family and medical leave policies of Cracker Barrel Old Country Store, Inc. "the Company", which includes and applies to all subsidiaries, affiliates and related companies. These policies comply with all state and federal laws. If there is an apparent conflict, the Company defers to the state or federal law.

#### A. Amount of FMLA Leave

The Company's policy complies with the Family and Medical Leave Act (FMLA), which entitles eligible, qualified employees to a 12-week, job-protected unpaid leave of absence within a 12-month period. FMLA also entitles eligible employees up to 26 weeks of unpaid leave to care for a covered service member with a serious injury or illness in a single 12-month period. In some circumstances, these entitlements will run concurrently.

#### B. Eligibility for FMLA Leave

To be eligible for FMLA leave, an employee:

- must have been employed by the Company for at least 12 months; and
- must have worked for the Company at least 1,250 hours during the 12-month period immediately prior to the beginning of an FMLA leave.

#### C. Purposes of FMLA Leave

FMLA leave can be taken for the following reasons:

- the birth of, or to care for, a newborn child;
- the placement of a child for adoption or foster care or to care for such child;
- to care for a spouse, child, or parent with a serious health condition;
- a serious health condition that causes an employee to be unable to perform the essential functions of his or her job.
- because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
- to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

FMLA leaves will not be granted to pursue other employment opportunities. Employees who use a leave of absence to pursue other employment opportunities will face disciplinary action, up to and including termination. This applies to both application for, as well as working at, subsequent employment.



#### **D. Defining Terms Used in this FMLA Policy**

- "Spouse" means a husband or wife, as recognized under the state law which applies to each employee at the time he/she begins an FMLA leave (or as recognized under federal law, if applicable).
- "Parent" means a biological parent, an adoptive parent, a stepparent, or one who has stood in the place of a parent, but does not include in-laws.
- "Child" means a biological or adopted child and also includes an employee's foster child, stepchild or legal ward. A child usually must be under age 18 for purposes of FMLA leave but can be 18 years of age or older if he/she is unable to care for his/her daily needs because of a mental or physical disability.

An employee requesting FMLA leave may be required to provide documentation showing that the necessary relationship exists in accordance with these definitions and that the FMLA leave request is related to the condition or event described by the employee in his/her FMLA leave request.

A "serious health condition" is any illness, injury, impairment or physical or mental condition that involves any of the following:

- (a) an overnight stay in a hospital, hospice or residential medical care facility;
- (b) incapacity to work or perform regular daily activities for more than three consecutive calendar days and treatment by or under the supervision of a health care provider two or more times, or once which results in a regimen of continuing treatment under the supervision of a health care provider;
- (c) incapacity to work or perform regular daily activities for any period of time due to pregnancy or prenatal care;
- (d) incapacity to work or perform regular daily activities for any period of time related to a chronic serious health condition that requires periodic treatment by or under the supervision of a health care provider over an extended period of time, such as epilepsy, diabetes or asthma;
- (e) incapacity to work or perform regular daily activities that is permanent or long-term due to a condition which cannot be cured or eliminated but is continually monitored by a health care provider, such as end-stage terminal cancer, a severe stroke or Alzheimer's disease; or
- (f) incapacity to work or perform regular daily activities for any period of time related to the receipt of or recovery from multiple treatments for a condition that would be likely to cause a period of incapacity of more than three consecutive calendar days if such treatments were not administered, such as chemotherapy for cancer, dialysis for kidney disease or physical therapy for severe arthritis.

#### **E. Period for Taking FMLA Leave**

FMLA leave may be taken either continuously or on an intermittent (reduced work/part-time) basis. However, if FMLA leave is taken on an intermittent (reduced work/part-time) basis, an employee may be transferred temporarily to an available alternative position that better accommodates this type of leave. In addition, if FMLA leave is taken for the birth of a child, to care for a newborn or for the placement of a child for adoption or foster care such leave must be taken at one time—not on an intermittent basis—and it must be concluded within one year of the birth or placement of the child.



Employees who take leave intermittently should make a reasonable effort to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations.

- Intermittent FMLA leave will be tracked using the smallest increment available through the Company's payroll system, no greater than one hour.
- Employees on intermittent FMLA leave must continue to comply with the Company's regular absence and call-in reporting policies to the extent possible.

**F. Calculation of the 12-Month Period for Purposes of FMLA Leave**

The Company uses the "rolling" 12-month method. Under this method, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months.

**G. If Both Spouses are Employed by the Company**

When both spouses work for the Company and are both eligible for FMLA leave, they are limited to a combined total of 12 weeks of leave if the leave is taken (1) for the birth or care of a newborn child, (2) for the placement of a child for adoption or foster care and care of the child after placement or (3) to care for the employee's parent who has a serious health condition. Care for parents-in-law is not covered by FMLA. Both spouses then would be eligible to use any remaining FMLA leave time for other FMLA-qualifying purposes. If one or both spouses also are separately eligible for additional leave under another federal or state law, each eligible spouse may take the additional leave for which they qualify under that law.

## **II. APPLYING FOR FMLA LEAVE**

**A. Employee Notice**

Employees must give the Company at least thirty (30) days' advanced notice if their need for FMLA leave is foreseeable. In case of an emergency, the employee or an immediate family member must give verbal or written notice as soon as practicable under the circumstances. It generally should be practicable to provide notice of unforeseeable leave within the guidelines of the Company's attendance policy. NOTE: If verbal approval is granted, it must be followed up by completion of a written and signed FMLA leave request form. Requests for leave of absence must be made through the Absence app in Workday by clicking on Menu > Absence > Request Absence.

When an employee is planning medical treatment for him/herself or a family member, the employee should work with the Company to schedule this leave in a way that does not disrupt business operations to the extent it is medically possible to do so. If the employee's requested FMLA leave will cause a business disruption, the Company may require the employee to reschedule the leave if it is medically possible to do so.

Employees giving notice of the need for FMLA leave do not have to refer specifically to the "FMLA", but they must give sufficient information to let the Company know that their leave is being requested in connection with an FMLA-qualifying event such as a serious health condition.



## **B. Medical Certifications**

If an employee needs to take FMLA leave to care for a seriously ill spouse, child, or parent or because of the employee's own serious health condition, the employee must provide a medical certification form completed by the treating health care provider. The certification must be provided within 15 calendar days.

**Incomplete or insufficient certifications** – The employee will have 7 calendar days (unless not practicable under the particular circumstances) to cure incomplete or insufficient certifications. A certification that is not returned within the timeframe above would constitute a failure to provide certification.

Additional medical certifications may be requested by the Company in accordance with FMLA regulations. (Additional certifications are not the same as "re-certifications" which are discussed in the Status Reports/Re-certifications section later in this policy.)

**Failure to provide any requested medical certification may result in the denial of leave until certification is provided. During this time, any absences related to the request for leave will be administered within the guidelines of the Company's attendance policy. Failure to comply with these guidelines may result in disciplinary action, up to and including termination.**

*The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. To comply with this law, the Company requests all medical providers to not provide any genetic information when responding to requests for medical information.*

## **C. Designation of FMLA Leave**

An employee who has requested medical leave will be informed regarding FMLA designation within five (5) business days of the employee's request for FMLA leave.

# **III. HOW FMLA LEAVE COORDINATES WITH OTHER LEAVES**

## **A. Interaction of Unpaid FMLA Leave and Paid Leaves**

FMLA leave is unpaid. However, there are certain circumstances in which employees may receive pay while they are on FMLA leave. For example, employees must substitute any earned vacation time in place of unpaid time while they are on FMLA. The employee's paid vacation time and FMLA leave will run together at the same time until the vacation time has been fully used. Any remaining FMLA leave then will be unpaid.

Employees also may qualify for FMLA leave in connection with a work-related injury that results in a serious health condition requiring an absence from work. If an employee qualifies for FMLA



leave because of a work-related injury, the employee's leave taken because of the work-related injury and his/her FMLA leave will run together at the same time -- although the FMLA leave time

may run out before the work-related injury leave ends. This will be true regardless of whether the employee is on a continuous leave from work or is taking leave intermittently (working a reduced schedule/part time) because of a work-related injury. Employees who are on FMLA leave because of a work-related injury may not substitute either earned sick time or vacation time in order to be paid while on leave. The only exception to this policy is that employees may use earned sick time and then vacation time (if needed) during any waiting period required for workers' compensation benefits under their state workers' compensation law.

#### **B. Interaction of FMLA Leave and Other Laws**

In states that have additional leave laws, the Company complies with the provisions of the state or other law that provides greater family or medical leave rights. However, FMLA and state or other leave laws will run concurrently if the employee qualifies for both, unless the law expressly provides otherwise. Information regarding how a state law affects FMLA will be provided to employees in connection with their leave as applicable.

### **IV. HOW FMLA LEAVE AFFECTS YOUR JOB**

#### **A. Status Reports/Re-certifications**

While on FMLA leave, employees may be required to provide periodic status reports regarding their intent to return to work.

Employees taking FMLA leave will also be required to provide re-certification from the health care provider who has certified their leave if/when their original certification expires. If no specific ending date is specified in the original certification, the employee may be asked to provide a re-certification form every thirty (30) days. Employees will be given 15 calendar days to provide re-certification forms.

Employees on FMLA must notify the Company within two (2) business days of learning that the status of his/her serious health condition (or other situation, if the leave is not related to the employee's own serious health condition) has changed so that either more or less FMLA leave time is needed. Failure to provide notice of such changes could cause portions of the employee's leave not to be designated as FMLA or may result in disciplinary action, up to and including termination.



## **B. Returning to Work after an FMLA Leave**

Upon returning to work after an FMLA leave, an employee will be given the same job or one equivalent to the job he/she had prior to the start of their leave. If an employee does not return to work by the end of his/her FMLA leave, the right to return to his/her former job or an equivalent one will be lost.

Employees who take FMLA leave due to their own serious health condition(s) will be required to provide documentation from their treating physician stating that they have been medically released to return to work and perform the essential functions of their job before they will be permitted to do so. The Company will consider reasonable accommodations for employees that are unable to perform the essential functions of their job due to an ADA eligible condition, as specifically requested by the employee.

## **C. Seniority, Evaluations, Merit Increases and Bonuses**

A family or medical leave will not affect an employee's eligibility for vacation, bonus, advancement, seniority, length of service, credit, benefit plans or programs for which the employee was eligible at the time of leave or any benefits or rights incidental to employment with the Company. Time on leave does not count for time eligibility for PAR testing. Evaluations will not be administered while an employee is on leave. Evaluations will be administered once the employee has returned to work.

## **D. Company Sponsored Health Benefit Plans**

If enrolled in the group health plan and any optional plans (if applicable), an employee must continue to pay his/her portion of the contributions while on Leave of absence in accordance with the Company's current benefit payment guidelines. If he/she does not continue their portion of the contributions, coverage will be subject to cancellation retroactive to the date paid through, which may result in a gap in coverage. The Company does not allow the "catch-up" payment option upon return to work.

If an employee's benefit coverage is canceled while on an approved FMLA leave of absence, coverage may be reinstated effective as of the employee's return to work date in accordance with the Family Medical Leave Act and the Plan's coverage provisions while on FMLA. The employee may then only cancel or change coverage during Open Enrollment or within 30 days of one of the approved Qualifying Changes in Status as described in the Summary Plan Description (SPD).

## **V. QUESTIONS**

Questions about FMLA or how FMLA affects other employee benefits or Company policies should be directed to the Benefits Department.