

## 29 C.F.R. § 825.604

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### Special rules for school employees, restoration to an equivalent position.

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The determination of how an employee is to be restored to an equivalent position upon return from FMLA leave will be made on the basis of “established school board policies and practices, private school policies and practices, and collective bargaining agreements.” The “established policies” and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to an equivalent position must provide substantially the same protections as provided in the Act for reinstated employees. See § 825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

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