

# FAMILY AND MEDICAL LEAVE ACT

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## **I. Purpose**

To ensure compliance with the Family and Medical Leave Act (FMLA or ACT) of 1993. Any terms used herein will be as defined in the Act. To the extent that any provision is in violation of the Act, the language of the Act will prevail.

## **II. Scope**

An employee is eligible for an FMLA leave if they have been employed by the College for at least twelve (12) months and at least 1,250 hours during the twelve (12) month period immediately preceding the employee's request for leave or the date on which the leave commences, whichever comes first.

## **III. General**

An eligible employee, upon request, will be granted up to twelve (12) work weeks of unpaid FMLA leave during the twelve-month period for one or more of the following events:

- A. For the birth of a child of the employee and to care for the newborn within one year of birth;
- B. For the placement and care of a child with the employee for adoption or foster care within one year of placement;
- C. To care for a spouse, child, or parent who has a serious health condition;
- D. For the serious health condition of the employee which makes them unable to perform the essential functions of their job.
- E. For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also be granted up to twenty-six (26) workweeks of unpaid FMLA leave during the twelve-month period to care for a covered servicemember with a serious injury or illness when the employee is the spouse, child, parent, or next of kin of the service member.

FMLA grants of leave do not accumulate from year-to-year.

### **1. Benefits**

The taking of an FMLA leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; provided, however, that nothing in this sentence shall be construed to entitle any employee who returns from leave to the accrual of any seniority or employment benefits during the period of the leave or any right, benefit or position other than that to which the employee would have been entitled had the employee not taken the leave.

## **2. Return to Position**

Employees who take an FMLA leave shall be entitled, on return from the leave, to be restored by the College to the position of employment held by the employee when the leave commenced or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

## **3. Health Benefits**

During the period of an FMLA leave, the College shall maintain coverage under any group health plan as defined by the FMLA for the duration of such leave and at the level and under the conditions of the coverage which would have been provided if the employee had continued in employment for the duration of the leave. The College shall have the right to recover the premiums paid for maintaining coverage for the employee under such group health plan during the period of an FMLA leave if the employee fails to return to work for reasons other than the continuation, recovering from, or onset of a serious health condition entitling the employee to leave under Section III-C or III-D above, or other circumstances beyond the employee's control. In this situation, the College may require certification of inability to return to work as specified and allowed by the FMLA.

## **4. Relationship to Paid Leave**

Pursuant to applicable bargaining unit terms, an employee may elect to substitute any accrued vacation leave, personal leave, or family leave for any part of the twelve (12) week period of leaves taken pursuant to Section III-A, III-B, or III-C above. An employee may be required to substitute any accrued or available paid medical or sick leave for part or all of the twelve (12) week period of leave under Section III-D above, with any remainder of the twelve (12) week period to be unpaid.

## **5. Birth Year**

An unpaid family leave of up to twelve (12) workweeks for the birth/care of a child or the placement of a child for adoption or foster care may be taken at any time within the twelve-month period which starts on the date of such birth or placement of adoption or foster care. However, regardless of when the leave commences, it will expire no later than the end of the twelve (12) month "birth year". For example, an employee who requests a leave at the start of the eleventh month [of the twelve (12) month birth year counted from the date of birth or placement] is entitled to only eight (8) work weeks of unpaid leave (months 11 and 12.)

## **6. Spouses Employed**

Spouses, both of whom are employed by the College, are limited to a combined total of twelve (12) workweeks of unpaid leave during any twelve (12) month period for the birth/care of their child, placement of the child for adoption or foster care, or the care of a parent with a serious health condition. However, each employee may use up to twelve (12) workweeks of unpaid leave during any twelve (12) month

period to care for their child or spouse who is suffering from a serious health condition.

## **7. Notification of Birth**

An employee who foresees that they will require leave for the birth/care of a child or the placement of a child for adoption or foster care must notify the College, in writing, not less than thirty (30) calendar days in advance of the start date of the leave. If not foreseeable, the employee must provide as much written notice as is practicable under the circumstances.

## **8. Notification of Medical Treatment**

An employee who foresees the need for a leave of absence due to planned medical treatment for their spouse, child, or parent should notify, in writing, the College as soon as possible so that the absence can be scheduled at a time least disruptive to the college's operations. Such a member must also give at least thirty (30) calendar days written notice, unless impracticable, in which case the employee must provide as much written notice as circumstances permit.

## **9. Health Provider's Statement**

If the requested leave is to care for a spouse, child, or parent who has a serious health condition, the employee may be required to file with the College in a timely manner a health care provider's statement that the employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that the employee is needed for such care.

## **10. Intermittent Leave**

A leave taken for the birth/care of their child, placement of the child for adoption, or foster care shall not be taken intermittently or on a reduced leave schedule unless the College and the employee agree otherwise. Subject to the limitations and certifications allowed by the FMLA, other FMLA leaves may be taken intermittently or on a reduced leave schedule when medically necessary; provided, however, that where such leave is foreseeable based upon planned medical treatment, the College may require the employee to transfer temporarily to an available alternative position offered by the College 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 position.

## **11. Inform the College**

An employee on an approved FMLA leave should keep the College informed regarding their intent to return to work upon conclusion of the leave.

## **12. Opinion Verification**

In any case, in which the College has reason to doubt the validity of the health care provider's statement or certification for leaves taken, the College may, at its expense, require a second opinion.

## **13. Serious Health Condition**

For purposes of this policy, "Serious Health Condition" is defined as it appears in FMLA Section 101(11) as follows: "an illness, injury, impairment, or physical or mental condition that involves (A) inpatient care as defined in §825.114; or (B) continuing treatment by a health care provider as defined in §825.115. These definitions are further explained at length in the final FMLA regulations, 29 CFR Part 825.

## **IV. Responsibility**

Responsibility for the interpretation and administration of this policy is delegated to the Executive Director of Human Resources or designee.

Adopted: March 18, 2002 (original name: Family and Medical Leave Act Regulations)  
Revised: May 21, 2018 (renamed: Family and Medical Leave Act), 01/24/2022