

FAMILY AND MEDICAL LEAVE

Legal Authority: 29 USC, Chapter 28

Approval: April 19, 2011

Revision: April 17, 2018

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The Family and Medical Leave Act (FMLA) is a federal law originally enacted in 1993 and amended in 2008 and 2009. The overall purpose of the FMLA is to provide a balance between the demands of the workplace and the needs of families by providing job-protected, unpaid leave to eligible employees. The FMLA amendments of 2008 and 2009 extended the FMLA to certain military-related situations. The amendments provided leave for qualifying military exigencies and leave for families of covered military members.

The Board of Trustees has adopted and implemented this policy in accordance with state and federal laws. The Board delegates adoption, amendment and implementation of its procedures to the President of the College. In the event of any conflict between this policy and applicable law, employees will be afforded all rights by law.

Employment Eligibility for FMLA

Employees who have worked at least twelve (12) months or 52 weeks and at least 1,250 hours as an employee of the College during the (12) twelve month period prior to the requested leave are eligible for leave under the FMLA.

The twelve (12) months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven (7) years. Separate periods of employment will be counted if the break in service exceeds seven (7) years due to National Guard or Reserve military service obligations or when there is a written agreement stating the employer’s intention to rehire the employee after the service break. The 1,250 hours include only those hours actually worked for the College. Paid leave and unpaid leave, including FMLA leave, are not included.

Eligible Purposes for FLMA Leave

The FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance.

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves any period of incapacity. The College may require certifications of illness of the employee, spouse, child or parent to verify the validity of the leave request. The employee requesting leave due to his or her own serious health condition may be required to obtain a fitness-for-duty certification before

returning to work. Costs associated with any return to work certification will be at the employee's expense.

1. Eligible employees are entitled to twelve (12) workweeks of leave in a 12-month period for:

- Birth of a child and to care for the newborn child within one year of birth;
- Placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- Care for the employee's spouse, child, or parent who has a serious health condition;
- A serious health condition that makes the employee unable to perform one or more of the essential functions of their job;
- Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on "covered active duty";
 - Examples of qualifying exigencies include but are not limited to: attending certain military events, arranging or providing for alternative child care or school, addressing certain financial and legal arrangements, addressing issues arising from short-notice deployment, attending certain counseling sessions and attending post-deployment reintegration briefings.

2. Eligible employees are entitled to twenty-six (26) workweeks of leave during a single 12-month period for "military caregiver leave." This type of leave is to care for a covered service member (that has not been discharged from the military as disabled) with a serious injury or illness, and the eligible employee is the service member's spouse, child, parent or next of kin.

3. Eligible spouses who are both employed by the College are limited to a combined total of twelve (12) workweeks of leave in a 12-month period for the following FMLA-qualifying reasons:

- Birth of a child and bonding with the newborn child;
- Placement with the employee for adoption or foster care and bonding with the newly-placed child; or
- Care of a child with a serious health condition.

4. Eligible spouses who are both employed by the College are also limited to a combined total of twenty-six (26) workweeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness for "military caregiver leave," if each spouse is a parent, child, or next of kin of the service member. When spouses take military caregiver leave as well as other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed above.

FMLA and Paid Leave

FMLA runs concurrent with any leave being exhausted. The College requires employees to use any accrued paid leave while taking FMLA leave time. Paid Leave accrual exhaustion during FMLA leave will occur in the following order:

- Compensatory and Petty Leave time accruals;
- Sick Leave, Annual Leave or Bonus Leave accruals; and, finally,
- Any Shared Leave accruals acquired through the Voluntary Shared Leave policy

After exhaustion of these paid leave sources, FMLA is designated as unpaid leave.

If an employee is exhausting Compensatory, Petty, Sick, Annual, Bonus and/or Shared Leave, the pay status will be the same as if the employee was working. If an absence will (or does) last for more than five days, and the reason would otherwise qualify for FMLA, the time will be charged against the employee's FMLA entitlement.

Accrued leave may not be applied during periods of FMLA leave if the employee is receiving workers' compensation benefits, except under terms of the OSHR Workers' Compensation Supplemental Leave Schedule. Any FMLA leave that is not covered by short-term disability, workers' compensation or accrued leave will be without pay.

Intermittent leave or a reduced leave schedule may be available based on medical necessity or in the event of childbirth or adoption. Intermittent leave is defined as leave taken in separate blocks of time due to a single illness or injury. A reduced leave schedule is defined as leave that reduces an employee's usual number of working hours per workweek. Intermittent leave must be taken in quarter-hour increments. Leave to care for or bond with a newborn child or for a newly placed adopted or foster child may only be taken intermittently with the College's approval and must conclude within twelve (12) months after the birth or placement.

Continuation of Benefits During FMLA Leave

When an employee is in paid leave status:

- All regular benefits will continue, including health and other insurance coverages
- Annual, sick, petty, and bonus leaves will continue to accrue

When an employee is in unpaid leave status:

- College will continue to pay the College's portion of the health insurance premium.
 - The College shall recover the premiums for health coverage if the employee fails to return to work after the leave period is exhausted unless the employee has a continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control as defined in the federal regulations.
 - The employee will be responsible for paying any employee and dependent health care premiums as well as premiums for elected benefits. The employee will be responsible for paying these premiums each month to the Payroll Office.
 - If the premium payment for the employee's share is more than thirty (30) days late, the College may cease maintaining health insurance coverage (after providing fifteen (15) days' written notice that payment has not been received), or may pay the employee's share and recover the amount paid from the employee. If the fifteen (15) day notice is

provided and the employee fails to pay his or her share of the premium prior to the specified date on which coverage will be dropped, the employee's health insurance may be terminated as of the end of the thirty (30) day grace period.

- Leave accruals do not occur during unpaid FMLA leave.
- The resumption of an employee's benefits upon return from FMLA leave will be subject to any College-wide changes in benefits that have taken place during the period of FMLA leave.

FMLA Leave Calculations

The amount of FMLA leave used by or available to an employee will be calculated using a "rolling year" calculation. The College will review the twelve (12) months previous to the leave request, add all FMLA time the employee used during those previous twelve (12) months, and subtract that total from the employee's 12-week leave allotment. The employee's remaining available balance is equal to twelve (12) weeks less whatever number of days (or hours) the employee used during the 12-months preceding that day. The College cannot change its calculation method to a different method without first giving all employees at least sixty (60) days' notice of the pending change. Employees can take FMLA for more than one qualifying reason in a rolling year, but are limited to a total of twelve (12) weeks (except in the case of military caregiver leave). Eligible employees may take up to twelve (12) workweeks of leave during the 12-month period defined by the rolling year. Unused portions of FMLA leave cannot be carried over between eligibility periods.

When applying approved FMLA leave for an employee, the following time is counted:

- An employee's regularly scheduled shift
- Holidays that occur within a week when an employee is on FMLA leave for that entire week
- Holidays when an employee was scheduled or expected to work
- Holidays will not be counted if FMLA leave is used in increments of less than one week during a week in which a holiday falls.
- If an employee's schedule varies weekly and the College cannot determine how many hours an employee would have worked, the calculation will be based on the average number of hours worked per week in the 12-months prior to the employee taking leave (including overtime, time on leave of absence, etc.).
- When the College closes for longer than one week and employees are not expected to report to work, those days the College is closed do not count against an employee's FMLA leave entitlement.

Return to Work Following FMLA Leave

At the end of the twelve (12) weeks of approved FMLA, or qualifying exigency leave; or twenty-six (26) weeks of military caregiver leave, the employee will return to his or her same position with the College or one with the same pay grade, benefits and other conditions.

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