

**3354:1-41-02.6 (Combine: 3354:1-41-02.7 & 3354:1-41-02.6)**

**Procedure for Family and Medical Leave of Absence (FMLA) and Other Leaves of Absence for Non-Bargaining Employees.**

**FAMILY AND MEDICAL LEAVE**

The Family and Medical Leave Act of 1993 as amended is designed to help employees balance their work and family responsibilities by allowing them to take a leave of absence from work for family and medically related reasons. In order to comply with FMLA law, the College will administer FMLA leaves of absence in accordance with this procedure.

**(A) ELIGIBILITY**

Employees are eligible for FMLA leave after completing 12 months of employment with the College provided they have worked at least 1,250 hours over the previous 12 months.

**(B) REASONS FOR FMLA AND LEAVE ELIGIBILITY**

All qualified employees are eligible for a total of 12 workweeks of leave (using a rolling 12 month method for calculation) in a 12 month period for one or more of the following reasons:

- (1) The birth of a child and to care for the newborn within one year of birth
- (2) The placement of a child with the employee for adoption or foster care within one year of placement
- (3) To care for the employee's spouse or domestic partner, parent, child (defined as: a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in "loco parentis", or the child of a domestic partner) with a serious health condition
- (4) A serious health condition that makes the employee unable to perform the essential functions of his or her position

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### (C) NOTICE AND APPROVAL

Employees generally must request leave 30 days in advance when the need for leave is foreseeable. If unforeseeable, the employee must provide notice as soon as possible and practical under the circumstances. **If the employee will be absent from work for more than 5 consecutive days due to a FMLA qualifying reason, the employee must contact the College's third party FMLA administrator (UNUM at phone number (866) 779-1054).**

The employee is required to have a medical certification form completed and returned to the third party FMLA administrator for approval of the leave. Failure to provide an initial certification or recertification may result in delay or denial of the leave. The College may require second and third medical opinions at its expense.

### (D) USE OF PAID LEAVE

The College requires employees on FMLA leave to concurrently exhaust accrued paid leave, if applicable, in the following order: 1) sick leave 2) vacation leave and 3) personal leave (optional).

For full-time employees on a continuous paid FMLA leave, the Benefits Office will submit bi-weekly timesheets to the Payroll Office. Employees on an intermittent FMLA leave are required to complete their own timesheet.

### (E) WORKERS' COMPENSATION

A FMLA leave of absence will run concurrently with a workers' compensation absence when the injury meets the criteria for a serious health condition and the employee meets FMLA eligibility as defined above.

### (F) INTERMITTENT LEAVES

An intermittent leave is a leave taken in separate blocks of time due to a single illness, injury, or health condition. FMLA may be taken on an intermittent basis whenever medically necessary to care for a seriously ill

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family member or because the employee is seriously ill and unable to work. Intermittent time must be reported to the College's third party FMLA administrator within 7 calendar days of taking the time off work. For planned medical treatments, the employee must try to schedule treatments so as not to unduly disrupt the College's operation.

Intermittent leaves requested for a birth of a child or placement of the child with the employee for adoption or foster care must receive prior approval from the College.

#### (G) CONTINUATION OF BENEFITS

The College shall maintain group health coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and at the same terms as if the employee had continued to work. Arrangements by the Benefits Office will be made for employees to pay their share of health insurance premiums while on an unpaid leave.

The College may recover from the employee the cost of maintaining College benefits during their unpaid leave if the employee fails to return from leave.

#### (H) RETURN TO WORK

Employees returning to work from a FMLA leave of absence due to a serious health condition must send a Return to Work Form completed and signed by a licensed physician to the Benefits Office two days prior to their return to work. If released with restrictions, the employee's supervisor along with Human Resources will make a determination as to whether the department can accommodate restrictions. Within one work day of receiving the return to work form with restrictions, the Benefits Office will notify the employee whether approval is granted and if so, what conditions apply.

#### (I) RESTORATION TO POSITION

Upon return from a FMLA leave, an employee will be restored to the employee's original job, or to an **equivalent job** with **equivalent pay**, benefits and other terms of employment.

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An employee's use of FMLA cannot result in loss of any employment benefit that the employee earned or was entitled to before using FMLA leave. Under specified and limited circumstances, the College may refuse to reinstate certain highly paid "key" employees provided that it follows applicable requirements in doing so.

#### **(J) MILITARY FAMILY AND MEDICAL LEAVE**

The Family and Medical Leave Act was amended to extend FMLA qualifying leaves to military families. Appropriate Armed Forces documentation will be required to support the need for military leave.

The reasons and duration for military family leave are:

- (1) An eligible employee may take 12 workweeks unpaid leave in a 12 month period for a qualifying exigency (emergency) arising out of the fact that the employee's spouse, son, daughter, parent or domestic partner is a military member on covered active duty or has been notified of an impending call to covered active duty in support of a contingency operation.
- (2) An eligible employee may take 26 workweeks of unpaid leave in a 12 month period to care for a spouse, son, daughter, parent, domestic partner or next of kin of a covered service member with a serious injury or illness.

#### **(K) KEY TERMS**

"Serious health condition," "key employee," and "health care provider" shall have definitions given to them in the Family and Medical Leave Act.

### **OTHER DISCRETIONARY NON-FMLA LEAVES OF ABSENCE**

#### **(A) TYPES**

##### **(1) MEDICAL NON-FMLA**

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Employees requesting a discretionary medical Non-FMLA leave of absence must notify the College's third party FMLA administrator for leaves at least 30 days in advance if the leave is foreseeable. If unforeseeable, the employee must provide notice as soon as possible or practical. The employee will need to provide a medical certification form indicating the employee has a serious health condition.

Employees returning to work from a discretionary leave of absence due to serious health condition must send a completed return to work form to the Benefits Office two days prior to their return to work. If released with restrictions, the employee's supervisor along with Human Resources will make a determination as to whether the department can accommodate restrictions. Within one work day of receiving the return to work form with restrictions, the Benefits Office will notify the employee whether approval is granted and if so, what conditions apply.

#### (2) NON-MEDICAL NON-FMLA

Employees requesting a non-medical Non-FMLA leave must notify their Supervisor and the Benefits Office in writing of an extended leave of absence at least 30 days before the leave begins when possible or practical.

#### (B) PROVISIONS

The College will treat each request individually, and in doing so will consider the needs and wishes of the employee while respecting the best interests of the College. The College reserves the sole discretion to determine whether or not to grant a discretionary leave of absence request and to determine the terms of the leave.

- (1) Failure to meet timing requirements may negatively affect continuation of wages, benefits and employment status.
- (2) The approval of the employee's supervisor and the Benefits Office is required before a discretionary leave of absence may be granted. The Vice President of Human Resources will have final approval.

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- (3) The employee will be notified of the final determination of their discretionary leave of absence request. If the leave of absence is approved, the employee is required to use any accrued vacation leave and accrued sick leave (if applicable) before being placed on an unpaid leave. Timesheets, if applicable, will be submitted by the Benefits Office while they are on a discretionary leave of absence.
- (4) Any deductions will continue to be deducted from the employee's bi-weekly pay. If the employee is on unpaid non-medical discretionary leave of absence, COBRA will be offered.
- (5) Subject to the terms of any letter from the College approving the leave, the employee will be offered his or her original job at the end of the leave of absence. If that job is no longer available, the employee may be offered another job for which the employee is qualified as soon as one is available but in no case later than one year from the last day worked.
- (6) The College reserves the right to cancel such leave of absence if the employee is not using the leave of absence for the approved purpose.
- (7) For the purposes of this procedure a discretionary leave of absence is any non-vacation absence of more than 5 consecutive days or a period of frequent intermittent absences that does not qualify for FMLA.

## MILITARY LEAVE

A military leave of absence may be granted to employees who are absent from work because of service to our country under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Employees must give notice of impending military service hours unless military necessity prevents such notice or it is otherwise impossible or unreasonable. To request a military leave of absence, the employee must provide a copy of their military orders to the Benefits Office in order for the leave of absence to be approved.

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The President or the President's designee shall take all steps necessary and appropriate for the effective implementation of this procedure.

Effective date: July 8, 2014 (js)

Prior effective dates: December 15, 2005; November 17, 2008; January 21, 2009