FAMILY AND MEDICAL LEAVE

The College understands the importance of family issues in the work force. Because employees may find it necessary to take leave from their jobs for a temporary period to address certain family responsibilities or their own serious health conditions, and in order to comply with the Family and Medical Leave Act of 1993 (FMLA) the College hereby establishes its family and medical leave policy.

See following pages for procedure.

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FAMILY AND MEDICAL LEAVE

GENERAL

Intent
It is the intent of the College to abide by the requirements of the Family and Medical Leave Act of 1993 (FMLA). Further, it is the intent of the College to integrate the provisions of this policy/procedure with existing College policies/procedures.

Covered Leave
The College will grant an eligible employee unpaid leave for up to 12 work weeks during a 12-month period, if the procedures in this policy are followed and leave is requested for any of the following reasons:

1. The birth or adoption of a child, or the foster care placement of a child;
2. To care for a “family member” of the employee if that individual has a serious health condition; or
3. A serious health condition of the employee renders the employee unable to perform his or her job functions.

If the leave is for birth, adoption, or foster care placement, the leave must be completed within 12 months of the date of birth or placement.

The 12-Month Period
Available leave will be calculated by determining the amount of leave used by an employee for the 12 months prior to each day for which leave is requested and subtracting that number from the total of days equal to 12 work weeks. This is referred to as the “rolling” method of calculation.

Spousal Exception
If a husband and wife both work for the College and are eligible for leave, they are only entitled to a combined 12 work weeks of leave taken for birth, adoption and foster care placement.

DEFINITIONS

Family Leave
“Family Leave” is leave taken because of the birth or placement of a child with the employee.

Family Member
“Family member” is defined in FMLA and the procedure to include the employee’s spouse, son, daughter, parent (but not a parent “in-law”). A “spouse”
is a legal husband or wife. A “son” or “daughter” is any child under 18 who is the biological child of the employee, or who is adopted by the employee, or who the employee supervises on a day to day basis and for whom the employee is financially responsible. A “son” or “daughter” is also a child over 18 who is incapable of self-care because of a mental or physical disability. A “parent” is any individual who assumed day to day rearing and financial responsibility for the employee when the employee was a child.

The College will not permit leave under this procedure to care for individuals who are not “family members”.

Health Care Provider
A “health care provider” is any doctor or medicine or osteopathy, podiatrists, optometrist, and nurse practitioner, or nurse midwife performing within the scope of their practice as defined under state law. Christian Science practitioners and Chiropractors are health care providers to the extent defined under regulations issued by the U.S. Department of Labor.

Medical Leave
“Medical Leave” is leave taken to care for family members if they have a serious health condition. Also, “medical leave” is taken by an employee because of a serious health condition that makes the employee unable to perform his/her major job functions.

Serious Health Condition
“Serious health condition” is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, continued treatment by a health care provider, or the inability of the person with the condition to care for his or her own basic hygiene or nutritional needs or safety. Pregnancy (pre-birth), at such time as it may inhibit an employee’s ability to perform assigned duties, shall be considered a serious health condition. Minor illnesses that last only a few days and surgical procedures that typically do not involve hospitalization and require only a brief recovery period shall not be considered serious health conditions.

Work Week
A “work week” is equivalent to five eight hour work days, exclusive of holidays and other close down days.

ELIGIBILITY

Minimum Eligibility Requirements
An employee is eligible if the employee has been employed for at least 12 months (or 52 weeks) by the College, and has worked at least 1,250 hours during the 12-month period prior to the time leave would begin under this procedure. The College will make the determination at the time of the leave request.
Work Site Rules
The College will attempt to accommodate all leave requests, regardless of the number of employees at a particular work site. Employees must realize that they are not protected under FMLA if there are fewer than 50 employees within 75 miles of the employee’s work site. Therefore, the College reserves the right to deny a leave request from an employee at a work site that does not meet this 50-employees-within-75-miles test, if the College concludes that granting the leave would adversely affect the operations of that site.

Leave for Serious Health Conditions
Employees should recognize that this policy and FMLA are only intended to cover serious health conditions—generally those which involved four or more days incapacity from work or school, or chronic, long-term, incurable conditions. Employees who wish to take leave to care for family members with non-serious health conditions are not covered by this policy. Employees can use their vacation or personal leave for non-serious health conditions, subject to all restriction of those policies, including scheduling and increments of leave. The granting of unpaid leave for non-serious health conditions is within the exclusive discretion of the College.

PROCEDURES FOR REQUESTING LEAVE

 Requests for Leave
1. **Procedure**: All requests for family or medical leave should ordinarily be initiated by contacting the immediate supervisor. This will assist the College in working out appropriate schedules. If for any reason employees do not wish to inform their supervisor of the reason for the leave, or if they have questions about their supervisor’s response, they should contact the Human Resource office.

2. **Foreseeable Leaves**: If the need for family or medical leave is foreseeable, the employee **MUST** provide notice to the College of **not less than 30 days**. Leave will be denied unless there is a reasonable excuse for failure to provide the required 30 days’ notice. If leave is denied for lack of notice, the employee may designate leave to start 30 days after notice is given.

3. **Scheduling**: If the leave is for the planned medical treatment of the employee or a family member, or requires intermittent or reduced schedule leave, employees may be required by their supervisor to arrange a particular schedule or to reschedule appointments or treatments, subject to the consent of the health care provider.

4. **Unforeseeable Leaves**: If the need for family or medical leave is not foreseeable, notice must be given by the employee as soon as possible and practicable. Employees are expected to promptly notify their supervisor as soon as they learn of the need for leave.
Proof
1. Medical Certification: The College may require proof of necessity for family or medical leave by a health care provider on forms provided by the College.
2. Certification must be submitted within 15 days of the date requested by the College.
3. Second Opinions: The College has the option of requiring the employee to get a second opinion from an independent medical provider selected by the College. The College will pay for the second opinion.

Leave is Contingent on Eligibility
Approval of all employee requests for FMLA leave is contingent upon a determination by the College that the employee is eligible for FMLA leave. This includes a determination of eligibility and provision of medical certification. Leave is also contingent on a second opinion that may be required. Because these procedures may take time, it is possible that a final determination may not be made until after the employee is on leave or has returned to work.

Transfer to Alternative Position
In all cases of intermittent and reduced schedule leaves, including part-time work after birth or adoption, the College reserves the right to require the employee to transfer to another position for either or both of the following reasons:
1. The transfer accommodates the employee’s need for leave;
2. The transfer better accommodates the College’s need for continued operations. This decision is in the sole discretion of the College.

The College reserves the right to transfer an employee to another position whenever an employee’s use of leave for one or more qualifying reasons is so frequent and intermittent that it is impossible to predict and schedule for coverage.

Confidentiality
The College will keep confidential all information relating to requests for family or medical leave. This information will be used only to make decisions to regard to the provisions of this policy. The College will follow the confidentiality requirements of the ADA for all FMLA-related information. The information regarding the confidentiality requirements of the ADA may be obtained in the Human Resource office.

**SUBSTITUTION OF PAID LEAVE FOR FMLA UNPAID LEAVE**

Employees are required to substitute any accrued sick leave days, any sick leave bank days (if granted), and any short term disability days (if applicable for any part of leave taken under this procedure. The period of paid leave will be deducted from the amount of unpaid leave available under this procedure.
Employees may elect to substitute any accrued vacation or personal leave days for any part of leave taken under this procedure.

**INTERMITTENT AND REDUCED SCHEDULE LEAVES**

**Intermittent Leave**

An employee taking leave for personal illness or to care for a sick family member need not take such leave continuously and may take it on an intermittent basis, or by reducing the employee’s scheduled work hours, if the employee provides certificate from the health care provider caring for the employee and/or family member that leave **MUST** be taken in that manner. If leave is not taken continuously, it will be deducted from the employee’s entitlement to leave, i.e., 12 weeks during a 12-month period, in increments of one hour.

**Part-time After Birth, Adoption, or Foster Care Placement**

Requests for intermittent or reduced schedule (part-time) leave after the birth, adoption, or foster care placement of a child will be considered on a case-by-case basis. The request should be made to the supervisor. As a general rule, part-time arrangements or intermittent leave will be granted:

- For a maximum of twelve (12) months after birth, adoption, or foster care;
- For leaves in increments of four (4) hours or one (1) day (such as five four-hour days or three eight-hour days);
- Subject to the ability of the employee’s supervisor to ensure that work is completed through scheduling changes, transfer or job-sharing; and
- Subject to the employee’s consent to alter schedules or work longer hours on an emergency basis, such as when other employees are out sick.

The College reserves the right to refuse this type of leave, or to cancel any arrangement for this type of leave on 30 days’ notice, if the College concludes that the needs of the College require the employee’s presence on a full-time basis.

**BENEFITS**

**Health Insurance Benefits**

During the leave, the College will pay for and maintain the employee’s coverage for individual health insurance benefits in the same manner as other employees.

If, at the time the leave commenced, the employee used the Institutional Benefit to pay a portion of dependent health insurance, the College will continue to apply this benefit to the premium for dependent health insurance. The remaining portion of the premium for dependent health insurance normally deducted from the employee’s paycheck must be paid by the
employee at the time contributions are normally deducted by tendering a check payable to the College, addressed to the College Business Office.

If the employee fails to make the required payments for dependent health coverage within 30 days of the date such payments are due, dependent health coverage will be discontinued.

All amounts due the College because of unreimbursed health benefits provided during leave will be deducted from the employee’s pay upon return.

Other Benefits
Other benefits will not be paid during the leave, nor will the employee accrue any benefits such as sick leave or vacation leave during the leave.

RETURN FROM LEAVE

General
An employee returning from leave will be reinstated to the same or an equivalent position upon the employee’s return to work unless the employee would have been terminated in the absence of the leave (e.g. layoff or termination of a temporary position). Taking of leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period.

Fitness-for-Duty Examinations
The College may require a fitness-for-duty certification where there is any question regarding the employee’s ability to safely perform the duties of his/her position.

Periodic Reporting
Employees on leave are encouraged to report at least monthly on their status and intent to return to work.

Repayment of Premiums
Employees who do not return to work after leave entitlement has expired will be required to reimburse the College for any health insurance premiums paid by the College during the period the employees was on Family or Medical Leave if the failure to return to work is not due to the continuation, recurrence, or onset of a serious health condition entitling the employee to leave or other circumstances beyond the employee’s control. An employee shall provide the Human Resource office certification from the health care provider supporting a claim of inability to return to work for health reasons.

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