

**Washtenaw Community College
Board of Trustees**

**Resolution regarding
Family and Medical Leave Policy**

Whereas, the Family and Medical Leave Act of 1993 (“the Act”) was enacted in April 1993, became effective August 5, 1993

Whereas, the Board adopted a Family and Medical Leave policy in October 1993,

Whereas, final regulations under the Act became effective in April 1995,

Whereas, changes in the Act, the regulations, and in interpretation have occurred and are occurring on a continual basis,

Whereas, the Board of Trustees intends that the College shall comply with the requirements of the Act,

Now therefore, the board hereby resolves as follows:

1. The family and Medical Leave Policy adopted by the Board in October 1993 is hereby rescinded.
2. The office of Human Resource Management is charged with the responsibility of overseeing compliance with the requirements of the Act.
3. The office of Human Resource Management shall develop and publish guideline and administer the guidelines in the best interests of the College and its employees.

Adopted: 9/28/99

Washtenaw Community College

Family and Medical Leave

Guidelines and Procedures

Under the Family and Medical Leave Act of 1993 (“FMLA”), the College will provide its employees up to 12 weeks unpaid leave in a 12-month period 1) to care for a child newly born, adopted or placed for foster care; 2) to care for an immediate family member with a serious health condition; or 3) because of a serious health condition of the employee.

As amended in 2008 and 2009, the Family Medical Leave Act includes two new military family leave entitlements. Eligible employees with a spouse, child or parent on active duty or called to active duty status in the Armed Forces, National Guard or Reserves in support of a contingency operation may take up to 12 weeks unpaid leave to address certain qualifying exigencies. The College will provide up to 26 weeks unpaid leave in a single 12-month period to care for a covered service member or veteran who has a serious injury or illness incurred in the line of duty.

The College will continue to provide health insurance coverage during the leave period, and will restore the employee to the same or an equivalent position after the leave is over.

These guidelines and procedures are intended to assist employees of the College in understanding and exercising their rights under the FMLA. However, these guidelines are necessarily summary in form. The rules and regulations under the FMLA are voluminous and detailed. Please contact the Office of Human Resource Management for clarification and explanation of these guidelines.

Summary of Rights and Obligations

What is Family and Medical Leave?

If you are an eligible employee, you may take up to 12 work weeks of leave during any 12-month period for one of the following reasons:

1. The birth of your child, in order to care for the child
2. The placement of a child with you for adoption or foster care
3. To care for your spouse, child, or parent with a serious health condition
4. Your own serious health condition that makes you unable to perform the essential function of your job
5. A qualifying exigency of a covered military member serving in the Armed Forces, National Guard or Reserves who is on active duty or called to active duty in support of a contingency operation. A qualifying exigency includes:
 - a. Short-notice deployment (of 7 days or less)
 - b. Military events and related activities
 - c. Child Care and school activities
 - d. Financial and legal arrangements
 - e. Counseling
 - f. Rest and recuperations (5 day limit)
 - g. Post-deployment activities (up to 90 days after termination of active duty)
 - h. Additional activities as agreed to by the employer and employee

If you are an eligible employee, you may take up to 26 weeks of leave during a single 12-month period to care for a family member, including a spouse, child, parent or next of kin, who is a veteran or current member of the Armed Forces, including National Guard or Reserves, has a serious illness or injury incurred in the line of duty while on active duty, and is:

1. undergoing medical treatment, recuperation, or therapy
2. otherwise in outpatient status, or
3. otherwise on a temporary disability retired list, provided that such injury or illness may render the service member medically unfit to perform duties of his/her office, grade, rank or rating

What is “a 12-month period”?

The College uses a “rolling” 12-month period to calculate FMLA leave. When you apply for FMLA leave, the College “looks back” 12-months from the date of your leave. You are entitled to any balance of the 12 weeks which has not been used in the immediately preceding 12 months. The 26-week leave to care for an injured Armed Forces service member must be used within a single 12-month period.

Am I eligible to apply for Family and Medical leave?

Before taking the leave, you must have been employed at the College for at least a total of 12 months and must have worked at least 1250 hours in the past 12 months.

Do I have to be a full-time employee to be entitled to FMLA leave?

Full-time employees are entitled to 12 weeks, or 480 hours, of leave in a 12-month period. Part-time employees who have worked 1,250 hours in the immediately preceding 12 months are entitled to a pro-rated number of hours per 12-month period.

What is an employee’s responsibility under FMLA?

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days is not possible, the employee must provide notice as soon as practicable and must comply with the College’s normal call-in procedures.

Employees must also provide sufficient information to determine if the leave qualifies for FMLA protection and the anticipated timing and duration of leave, including information that indicates the employee is unable to perform the functions of the job and is under the continuing care of a health care provider. Certification and periodic recertification supporting the need for leave may also be required. Failure to provide information may result in delay or denial of leave.

What is the College’s responsibility under FMLA?

The College must inform employees requesting leave whether they are eligible for leave within 5 days of the request. If eligible, the College will specify any additional information required as well as the employees rights and responsibilities. If not eligible, the College will provide a reason for the ineligibility. The College will notify the employee if leave will be designated as FMLA protected and the amount of leave counted against the employee’s leave entitlement. The College will also notify the employee if the leave is not approved.

In the case of birth or placement of a child, when must I take the leave?

The leave must conclude with the first 12 months of the child's birth or placement. Leave for prenatal care may also be included (for the spouse as well) if considered a serious health condition. If you and your spouse both work for the College, either or both of you may take the leave, and the total allowed (adding the leaves of both parents) is 12 weeks.

What is a "serious health condition"?

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves 1) inpatient care at a hospital, hospice, or residential medical care facility; 2) continuing treatment by a health care provider including incapacity of more than three consecutive calendar days, involving treatment two or more times within 30 days by a health care provider or at least a single visit to a health care provider that results in a continuing treatment regimen (visit must take place within seven days of the first day of incapacity); 3) pregnancy or prenatal care or 4) a chronic, episodic, or long-term incapacity.

Do I have to give the College notice of my need for Family and Medical Leave?

Yes. If the need for the leave is foreseeable, such as a birth, adoption, or planned surgery, you should notify the College at least 30 days prior to the leave. If the leave is not foreseeable you should notify the College as soon as practicable and must comply with the College's normal call-in procedures. The College may designate a leave based on information received from the employee or their representative (spouse, doctor) without receiving a formal notice or request.

How do I notify the College?

Contact the Office of Human Resource Management or your supervisor to let them know that you need FMLA leave and request forms to be delivered or sent to you. Complete the forms and return them to HRM as soon as possible.

Do I have to get a health care provider's certification with regard to my or my family member's "serious health condition", illness or injury (for military members)?

Yes. Human Resource Management can provide you with the proper form for your health care provider to complete on your behalf. The College may ask you to see a second or third health care provider to confirm your condition. Further, if you are requesting the leave to care for a family member, the health care provider must certify that you are needed to care for the family member. If the leave is foreseeable, you must provide the certification before the leave begins. If the leave is not foreseeable, you must provide the certification within 15 calendar days of the College's request. Failure to provide certification will result in denial of leave.

Must I take the leave all at once, or can it be taken in parts?

Family and Medical Leave can be taken intermittently or on a reduced leave schedule if the leave is to care for a family member with a serious health condition or for your own serious health condition when medically necessary (as distinguished from voluntary treatments and procedures). You must attempt to schedule your leave so as to disrupt your work schedule as little as possible. The College may reassign you to an alternate position in order to accommodate reduced schedule or intermittent leave.

Will my pay and benefits be continued during Family and Medical Leave?

Unless paid leave is used concurrently either at your option or at the option of the College, Family and Medical Leave is *unpaid*. During unpaid leave, the College will continue to pay its portion of health insurance premiums and life insurance. You are responsible for paying any co-premium that may apply. The leave is not treated as a “break in service” for seniority, eligibility, and vesting rights, but you will not accrue other benefits, such as sick, vacation, or personal leave during the leave.

Does paid leave count against my 12 weeks of Family and Medical Leave?

If you use paid leave, such as PTO, sick, vacation, or personal leave under circumstances which qualify for Family and Medical Leave, the College may count your leave as part of your 12 weeks. The College must notify you that it is designating your leave as Family and Medical Leave.

Must I exhaust my paid leave before going on FMLA leave?

You may apply for unpaid FMLA leave even if you have sick, vacation, or personal time which you have not used. However, either you or the College may elect to substitute paid time for unpaid FMLA leave.

Will the College hold my job during my leave?

Unless you are a “key” employee, the College will return you to your former position or an equivalent position (with equivalent pay, benefits, and other terms and conditions of employment) upon your return from leave.

Do I have to provide more medical certifications while I’m on FMLA leave?

While on FMLA leave, you must provide medical certification to support the leave every 30 days, unless the minimum period of incapacity specified on a certification is more than 30 days. The time frame may change if more frequent feedback is needed. Failure to provide certification within 15 calendar days of a request to do so by the College may result in delay or denial of leave. The College will permit recertification up to one year. If the need for an intermittent leave continues beyond one year, the employee must reapply and be reviewed for eligibility.

Do I have to report on my status and intent to return to work?

If the need for or duration of your leave changes and you need an extension of time or want to return to work sooner than expected, you should report this to HRM immediately. HRM will touch base with you periodically during your leave.

Are there any special procedures for returning to work?

If the reason for the leave was your own serious health condition, you must have your health care provider certify that you are able to return to work. Forms are available from HRM.

What happens if I don't come back to work?

If you don't return to work for at least 30 days after a Family and Medical Leave, you will be required to reimburse the College for the premiums it paid for health insurance, unless you don't return because you retire, because of a serious health condition, or because of certain other conditions beyond your control.

Definitions

“Child” means a biological, adopted, or foster child, a step-child. A legal ward, or a child or a person standing *in loco parentis*, who is either under age 18 or is over age 18 but “incapable of self-care because of a mental or physical disability.”

“Health Care Provider” includes a doctor of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (for certain treatments), nurse practitioners, nurse-midwives, clinical social workers.

“Intermittent Leave” is leave taken in separate periods of time due to a single illness or injury.

“Next of Kin” is the nearest blood relative to the Armed Services member.

“Parent” means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. This term does not include parents in law.

“Reduced leave schedule” is a leave schedule that reduces the usual number of hours per workweek or per workday.

Procedures

Notification. An employee must give the College 30 day's prior notice of the need for family or medical leave whenever possible. If the need for the leave is not foreseeable, then the employee must give the College notice as soon as practicable and must comply with the College's normal call-in procedures.

Forms. Request for FMLA Leave of Absence Forms are available in the Office of Human Resource Management. For serious health conditions affecting the employee or an immediate family member, a Certification of Health Care Provider must be completed. The College may require a second or third certification at the College's expense. If certifications are not provided within the time frames given, FMLA leave may be denied. Serious health conditions of the

employee require a Certificate of Fitness to Return to Work from a licensed physician before the employee resumes work duties.

Pay while on FMLA leave. It is the College's practice to keep an employee in a paid status, pending leave time availability while on FMLA leave. Leave time including PTO, sick leave reserve, sick leave, sick bank, personal and vacation time may be used.

Employee benefit payments. Employees whose health insurance plan involves a premium co-payment will be required to make payment on the same schedule as payments are made under COBRA if on unpaid FMLA leave. Coverage may terminate if the employee's payment is more than 30 days late. The College must give the employee 15 days written notice before terminating health insurance. If the employee is using concurrent paid time off, payroll deductions will continue.

Designation of paid leave as FMLA leave. The College may designate as FMLA leave any paid leave which qualifies under the FMLA. The College will notify the employee orally (followed by written) or in writing of the designation. Notification will usually be within two business days of notice to HRM of the reason for the leave. If any leave is so designated, the leave will count as part of the 12 weeks to which the employee is entitled.

"Key employees" may be denied FMLA leave if the employee is a salaried employee who is among the top 10 percent of the employees in terms of gross salary, and the leave would present substantial and grievous economic injury to the College's operations.

Revised November 6, 2009
Revised January 16, 2009