

**WESTERN NEBRASKA COMMUNITY COLLEGE
POLICIES AND PROCEDURES**

SECTION: Human Resources 400.0000.14
SUBSECTION: All Employees 415.0000.15

Family and Medical Leave
Policy Number: 415.2500.09

POLICY

The purpose of this leave is to promote and recognize the need for an employee to balance both the employee's work and family obligations; to permit unpaid time off to eligible employees for their own serious illnesses; to care for newborn or newly adopted children; or to care for seriously ill, close family members.

As used herein in this section, the following terms shall have the following meaning:

- 1) The term "son" or "daughter" shall mean the employee's biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the employee stands in loco parents, if the child is less than 18 years of age or over but incapable of caring for himself or herself due to a physical or mental disability.
- 2) The term "parent" shall mean the employee's biological parent or any person who has stood in loco parentis to the employee.
- 3) The term "serious health condition" shall mean an illness, injury, impairment, or a physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive full calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

All employees who have worked for the College for at least 12 months and who, during the 12-month period preceding the leave, have worked for the College for at least 1,250 hours, shall be eligible for Family and Medical Leave. Eligible employees shall be permitted to take up to 12 work weeks of unpaid Family and Medical Leave in any 12-month period commencing September 1st through August 31st, for any of the following reasons:

- 1) The birth of a child to the employee or the employee's spouse.
- 2) The placement of a child with the employee for adoption or foster care.
- 3) The need to care for a spouse, son, daughter, or parent with a serious health condition.
- 4) A serious health condition that causes the employee to be unable to perform his or her job functions.

MILITARY FAMILY LEAVE ENTITLEMENT:

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees may also take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty. The injury or illness must make the service member medically unfit to perform his or her duties for which the service member is

undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

BENEFITS AND PROVISIONS:

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the College's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Employees taking intermittent or reduced schedule leave based on planned medical treatment and those taking intermittent or reduced schedule family leave with the College's agreement may be required to temporarily transfer to another job with equivalent pay and benefits that better accommodates that type of leave.

When both parents of a newborn child or both adoptive or foster parents of a child recently placed for adoption or foster care are both employed by the College, the College shall be required to provide a combined total of not more than 12 work weeks of leave to the two employees when leave is taken pursuant to sections (1) and (2) immediately preceding this paragraph.

Unpaid Family and Medical Leave may be taken as follows:

- 1) To care for a family member with a serious health condition or for an employee's own serious health condition when medically necessary and the employee has satisfied the notification, scheduling, and reporting responsibilities of this policy. Such leave may be taken intermittently or on a reduced leave schedule.
- 2) For the birth or placement for adoption or foster care of a child within 12 months of the birth or placement. Such leave may not be taken on an intermittent or reduced leave basis except with the approval of the President.

Employees shall be required to substitute accrued paid leave for all or part of the unpaid Family and Medical Leave as follows:

- 1) When the leave is taken to care for a newborn or newly placed child or to care for a family member with a serious health condition, any accrued vacation leave or sick leave shall be substituted for unpaid leave at the rate of one hour of unpaid leave for each hour of substituted paid leave.
- 2) The College requires employees to use accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the College's normal paid leave policies. FMLA leave and disability benefit shall run concurrently. If an employee fails to follow the College's policies, the employee cannot use accrued paid leave, but can take unpaid leave. FMLA leave is without pay when paid leave benefits are exhausted.

When taking Family and Medical Leave, the employee shall have the following responsibilities:

- 1) When the need for Family Leave is foreseeable because of an expected birth or placement of a child for adoption or foster care, the employee must give 30 days prior notice of the need for leave. If the birth or placement is not anticipated this far in advance, the employee must provide as much notice as practicable.
- 2) When the need for leave is due to the serious health condition of the employee or the employee's family member, and the need for leave is foreseeable based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the College and must provide at least 30 days prior notice of the leave, unless the treatment date requires leave to be taken in less than 30 days, in which case the employee must provide as much notice as is practical.

An employee on Family and Medical Leave shall report on his or her status and intention to return to work on a weekly basis to the Chief Human Resources Officer.

An employee who takes Medical Leave due to the employee's own serious health condition or the serious health

condition of a family member shall provide a medical certification from a health care provider before the leave begins, if possible, or as reasonably soon after the leave begins, if prior certification is not possible. If the employee is able but does not return to work after the expiration of the leave, the employee will be required to reimburse the College for payment of insurance premiums during leave.

All medical certifications must, at a minimum, contain the following information:

The date on which the serious health condition began and the probable duration of the condition. If the employee's serious health condition is involved, the certification must state the employee is unable to perform the functions of the employee's job. If a family member's serious health condition is involved, the certification must state that the employee is needed to care for that family member.

In cases of intermittent or reduced leave schedule, the certification must contain the following additional information:

If the leave is for planned medical treatment, it must state the date on which such treatment is expected and the duration of the treatment. If the leave is for a serious health condition that renders the employee unable to perform the functions of the employee's job, it must explain the medical necessity for leave on an intermittent or reduced leave schedule and the duration of such leave. If the leave is to care for a family member with a serious health condition, it must state that the intermittent or reduced leave schedule is necessary to care for the family member and set forth the expected duration of the leave.

The College may require second and third medical opinions at the College's expense. Documentation confirming family relationship, adoption or foster care may be required. If notification and appropriate certification are not provided in a timely manner, approval for leave may be denied. Continued absence after denial of leave may result in disciplinary action in accordance with the College's attendance guideline. Employees on leave must contact the Human Resource Manager at least two days before their first day of return.

Before reinstating an employee returning from a leave for his or her own serious health condition, the employee must provide a medical certificate stating that the employee is medically able to resume his or her employment.

Full-time employees shall have the following benefits while on leave:

- 1) **Insurance.** While an employee is on Family and Medical Leave, the employee shall be entitled to continue insurance coverage on the same terms as if the employee were not on leave. That part of insurance premiums paid by the employee must be paid to and received by the College on or prior to the last business day of each month in order to keep such coverage in effect. If an employee fails to return to work after Family and Medical Leave, the employee shall be liable to the College for the premiums paid by the College during the employee's leave unless the failure to return is due to the serious health condition of the employee or his or her family member, or is, for any reason, beyond the control of the employee.
- 2) **Other Benefits.** While on Family and Medical Leave, the employee shall not accrue seniority or benefits such as vacation leave, personal leave, sick leave, and shall not be eligible for any pay increases. Employees shall not be entitled to any right, benefit, or position of employment other than that to which the employee would have been entitled had him or her not taken Family and Medical Leave.

Upon the employee's return to employment, the employee shall be reinstated to his or her position or any equivalent one with the College, with equivalent pay, benefits, and other terms and conditions of employment.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave. As with other types of unpaid leaves, paid leave will not accrue during the unpaid leave. Holidays, funeral leave, or employer's jury duty pay are not granted on unpaid leave. Paid leave does not accrue during Family Medical Leave.

The Family Medical Leave Act makes it unlawful for the College to:

- 1) Interfere with, restrain, or deny the exercise of any right provided under FMLA, and

- 2) Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the College.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family and medical leave rights.

DEFINITIONS

N/A

APPLICABILITY

N/A

Adoption Date: 2009

Revision Date (and Board of Governors' Minutes Item Number):

Prior Policy/Procedure Number:

Schedule for Review:

Divisions/Department Responsible for Review and Update:

Sponsoring Division/Department:

Rescinded Date:

Cross Reference:

Procedure(s) for Policy:

Related Policies/References: U.S. Department of Labor