



WASHINGTON COLLEGE POLICIES

FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act (“FMLA”) provides eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons. The maximum amount of leave an employee may use is either 12 or 26 weeks within a 12-month period depending on the reasons for the leave.

Eligibility

To be eligible for FMLA leave, you must:

1. have worked at least 12 months for the College in the preceding seven years (limited exceptions apply to the seven-year requirement);
2. have worked at least 1,250 hours for the College over the preceding 12 months; and
3. currently work at a location where there are at least 50 employees within 75 miles.

Conditions Triggering Leave

FMLA leave may be taken for the following reasons:

1. Birth of a child, or to care for a newly-born child (up to 12 weeks);
2. Placement of a child with the employee for adoption or foster care (up to 12 weeks);
3. To care for an immediate family member (employee’s spouse, child, or parent) with a serious health condition (up to 12 weeks);
4. Because of the employee’s serious health condition that makes the employee unable to perform the employee’s job (up to 12 weeks)
5. To care for a Covered Servicemember with a serious injury or illness related to certain types of military service (up to 26 weeks); or,
6. To handle certain qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on duty under a call or order to active duty in the Armed Forces (e.g., National Guard or Reserves) in support of a contingency operation (up to 12 weeks).

The maximum amount of leave that may be taken in a 12-month period for all reasons combined is 12 weeks, with one exception. For leave to care for a Covered Servicemember, the maximum combined leave entitlement is 26 weeks, with leaves for all other reasons constituting no more than 12 of those 26 weeks.

Definitions

A **“Serious Health Condition”** is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in College or other daily activities. Subject to certain conditions, the continuing treatment requirement includes an incapacity of more than three full calendar days and two visits to a health care provider or one visit to a health care provider and a continuing regimen of care; an incapacity caused by pregnancy or prenatal visits, a chronic condition, or permanent or long-term conditions; or absences due to multiple treatments. Other situations may meet the definition of continuing treatment.

A **“Covered Servicemember”** is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term “serious injury or illness” means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

“Qualifying exigencies” include activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements related to the deployment, rest and recuperation, counseling, and post-deployment debriefings.

Identifying the 12-Month Period: The College measures the 12-month period in which leave is taken by the “rolling” 12- month method, measured backward from the date of any FMLA leave with one exception. For leave to care for a covered servicemember, the College calculates the 12-month period beginning on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date. FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

Using Leave

Eligible employees may take FMLA leave in a single block of time, intermittently (in separate blocks of time), or by reducing the normal work schedule when medically necessary for the serious health condition of the employee or immediate family member, or in the case of a covered servicemember, his or her injury or illness. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. Intermittent leave is not permitted for birth of a child, to care for a newly-born child, or for placement of a child for adoption or foster care. Employees who require intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the College's operations.

Use of Accrued Paid Leave

Depending on the purpose of your leave request, you may choose (or the College may require you) to use accrued paid leave (such as sick leave, vacation, or PTO), concurrently with some or all of your FMLA leave. In order to substitute paid leave for FMLA leave, an eligible employee must comply with

the College's normal procedures for the applicable paid-leave policy (e.g., call-in procedures, advance notice, etc.).

Maintenance of Health Benefits

If you and/or your family participate in our group health plan, the College will maintain coverage during your FMLA leave on the same terms as if you had continued to work. If applicable, you must make arrangements to pay your share of health plan premiums while on leave. In some instances, the College may recover premiums it paid to maintain health coverage or other benefits for you and your family. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of your leave.

Notice and Medical Certification

When seeking FMLA leave, you are required to provide:

1. Sufficient information for us to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that you are unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. You must also inform the College if the requested leave is for a reason for which FMLA leave was previously taken or certified.

If the need for leave is foreseeable, this information must be provided 30 days in advance of the anticipated beginning date of the leave. If the need for leave is not foreseeable, this information must be provided as soon as is practicable and in compliance with the College's normal call-in procedures, absent unusual circumstances.

2. Medical certification supporting the need for leave due to a serious health condition affecting you or an immediate family member within 15 calendar days of the College's request to provide the certification (additional time may be permitted in some circumstances). If you fail to do so, we may delay the commencement of your leave, withdraw any designation of FMLA leave or deny the leave, in which case your leave of absence would be treated in accordance with our standard leave of absence and attendance policies, subjecting you to discipline up to and including termination. Second or third medical opinions and periodic re-certifications may also be required;
3. Periodic reports as deemed appropriate during the leave regarding your status and intent to return to work; and
4. Medical certification of fitness for duty before returning to work, if the leave was due to your serious health condition. The College will require this certification to address whether you can perform the essential functions of your position.

Failure to comply with the foregoing requirements may result in delay or denial of leave, or disciplinary action, up to and including termination.

Employer Responsibilities

To the extent required by law, the College will inform employees whether they are eligible under the FMLA. Should an employee be eligible for FMLA leave, the College will provide them with a notice that specifies any additional information required as well as the employee's rights and responsibilities. If employees are not eligible, the College will provide a reason for the ineligibility. The College will also inform employees if leave will be designated as FMLA-protected and, to the extent possible, note the amount of leave counted against the employee's leave entitlement. If the College determines that the leave is not FMLA-protected, the College will notify the employee.

Job Restoration

Upon returning from FMLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

Failure to Return After FMLA Leave

Any employee who fails to return to work as scheduled after FMLA leave or exceeds the 12-week FMLA entitlement (or in the case of military caregiver leave, the 26-week FMLA entitlement), will be subject to the College's standard leave of absence and attendance policies. This may result in termination if you have no other College-provided leave available to you that applies to your continued absence. Likewise, following the conclusion of your FMLA leave, the College's obligation to maintain your group health plan benefits ends (subject to any applicable COBRA rights).

Extended Medical Leave

Eligible employees who have exhausted their family and medical leave and all other employees may be allowed to take an extended medical leave of absence, not to exceed twelve (12) months following the last day worked. Employees who take such extended medical leave are not guaranteed to be returned to work or reinstated to a particular job, rate of pay, or shift at the end of their extended medical leave. However, the College will attempt to return an employee to his or her regular position if it is available. If it is not available at the time reinstatement is sought, the College will attempt to place you in a similar job for which you are qualified, if such job is available. Employees on extended medical leave may maintain their insurance benefits, subject to policy terms and conditions, by paying the applicable COBRA premiums in a timely manner. Employees on extended medical leave do not accrue any additional employee benefits such as paid time off while on extended medical leave.

Other Employment

The College generally prohibits employees from holding other employment. This policy remains in force during all leaves of absence including FMLA leave and may result in disciplinary action, up to and including immediate termination of employment.

Employers' Compliance with FMLA and Employee's Enforcement Rights

FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or 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.

While the College encourages employees to bring any concerns or complaints about compliance with FMLA to the attention of the Human Resources Department, FMLA regulations require employers to advise employees that they may file a complaint with the U.S. Department of Labor or bring a private lawsuit against an employer.

Further, 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 or medical leave rights.

Military Caregiver Leave

Unpaid Military Caregiver Leave allows eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty. The family member must be a "covered servicemember," which means: (1) a current member of the Armed Forces, National Guard or Reserves, (2) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, (3) for a serious injury or illness that may render him or her medically unfit to perform the duties of the member's office, grade, rank, or rating. Military Caregiver Leave is not available to care for former members of the Armed Forces or the National Guard or Reserves, or for servicemembers on the permanent disability retired list.

To be "eligible" for Military Caregiver Leave, the employee must be a spouse, son, daughter, parent, or next of kin of the covered servicemember and also meet all other eligibility standards as set forth within the FMLA Leave policy.

An eligible employee may take up to 26 workweeks of Military Caregiver Leave to care for a covered servicemember in a "single 12-month period." Within the "single 12-month period", an eligible employee may take a combined total of 26 weeks of FMLA leave including up to 12 weeks of leave for any other FMLA-qualifying reason (i.e., birth or adoption of a child, serious health condition of the employee or close family member, or a qualifying exigency).

Qualifying Exigency Leave

Eligible employees may take unpaid "Qualifying Exigency Leave" to tend to certain "exigencies" arising out of the duty under a call or order to active duty of a "covered military member" (i.e. the employee's spouse, son, daughter, or parent).

Persons who can be ordered to active duty include retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members including the Ready Reserve, the Selected Reserve, the Individual Ready Reserve, the National Guard, state military, Army

Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.

Although Qualifying Exigency Leave is available to an eligible employee whose close family member is called up from status as a retired member of the Regular Armed Forces, it is not available for a close family member on active duty or on call to active duty as a member of the Regular Armed Forces. Also, a call to active duty refers to a federal call to active duty, and state calls to active duty are not covered unless under order of the President of the United States pursuant to certain laws.

Qualifying Exigency Leave is available under the following circumstances:

- Short-notice deployment;
- Military events and related activities;
- Childcare and College activities;
- Financial and legal arrangements;
- Counseling;
- Temporary rest and recuperation;
- Post-deployment activities; or
- Mutually agreed leave.

Failure to Return from Leave or to Comply with College Policy

Employees may be subject to immediate termination for:

1. Failure to return to work as scheduled following the end of a leave;
2. Providing false or misleading information or omitting certain information in connection with a leave;
3. Violation of any of the College's rules and regulations relating to leave; or
4. Violation of any College policy or performance standard.

Effect of Family Leave on Other Benefits

Benefit Accrual Rates

The period of the family and medical leave will not count as service time for the computation of benefits eligibility or earning rates except during the period of paid leave.

Leave Earnings

The employee does not earn vacation leave, personal leave, or sick leave while on family and medical leave except during the period of paid leave.

Retirement Benefit

The employer's retirement contribution will continue during the period of paid leave. The employee may make arrangements with the College's Benefits Administrator to make individual contributions (that will not be matched by the College) during the period of unpaid leave.

Health Insurance Benefits

During family and medical leave, an employee's eligibility to participate in the group health program will be continued. If the leave is unpaid, the employee must make arrangements to pay his/her share of the premium to the Benefits Administrator by the first of the month.

Life and Disability Insurance

Life and disability insurance normally ends at the end of the month, after the unpaid period of the family and medical leave begins, unless an exception has been granted by the insurance carrier and the employee assumes responsibility for the premium payments.

Insurance Premium Payments

Payments for any month of coverage must be made to the College and received by the Benefits Administrator by the first of the month.

Other Benefits

Check with the Director of Human Resources for the applicability of other benefits.