

## 10.6 FAMILY AND MEDICAL LEAVE

In accordance with federal law, employees are eligible for family and medical leave after twelve (12) months of employment and provided the employee has performed at least 1250 hours of work during the previous 12-month period. (Full-time faculty is deemed to meet the 1250-hour requirement.)

All eligible employees are entitled to a total of twelve (12) workweeks of leave during the 12-month period for one or more of the following reasons:

- a. the birth of a child and to care for the newborn (Reason 1);
- b. the placement of a child with the employee for adoption or foster care (Reason 2);
- c. 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 the domestic partner with a serious health condition (Reason 3);
- d. a serious health condition that makes the employee unable to perform the essential functions of his or her position (Reason 4).

### A. Notice and Approval

A minimum of thirty (30) calendar days advance notice before the date the leave is to begin. Employees should contact the Department of Human Resources for more detailed information and to arrange family and medical leave, including parental leave. The Department of Human Resources can assist employees and their supervisors in arranging suitable coverage of the employees' responsibilities while on leave. Employees are required to complete the forms and return them to the Department of Human Resources for approval of leave within a minimum of thirty (30) calendar days advance notice before the date the leave is to begin. However, if the date of the birth, placement of the child, or serious health condition of the employee or family member requires leave to begin in less than thirty (30) days, the employee must provide as much notice as is practicable. Failure to give notice may result in a delay of leave.

Employees must request the family and medical leave in writing and submit the request to the Department of Human Resources. A medical certification form will be provided. Medical certification must be received by the Department of Human Resources to approve of the leave.

### B. Substitution of Paid Leave

The College requires employees to substitute accrued paid leave (e.g., vacation, sick leave, personal leave) for family and medical leaves whenever permitted by law. If the employee does not have available sufficient paid leave for the entire twelve (12) weeks, the employee may take the balance of the leave as unpaid leave. If the employee has available more than twelve (12) weeks of paid leave, the employee may use all of the paid leave that applies to the employee's situation.

A family and medical leave may run concurrently with a worker's compensation absence when the injury is one that meets the criteria for a serious health condition. As

the worker's compensation absence is not unpaid leave, the provision for substitution of accrued paid leave is not applicable.

### **C. Intermittent Leaves and Reduced Leave Schedules**

An intermittent leave is a leave taken in separate blocks of time due to a single illness, injury, or health condition. An example is a leave taken several days at a time spread over several months for chemotherapy.

A reduced leave schedule is a change in the employee's normal schedule for a period of time, usually from full-time to part-time. An example is a reduction in the workday from eight (8) hours to six (6) hours because of a serious health condition.

Leaves taken for the following reasons shall not be taken intermittently or on a reduced-leave schedule, except as permitted by the Parental Leave Policy:

- 1) leaves taken for the birth of a child or to care for the newborn (Reason 1)
- 2) and, leaves taken for the placement of a child with the employee for adoption or foster care (Reason 2).

Leaves taken for the following reasons may be taken intermittently or on a reduced-leave schedule:

- 1) leaves taken to care for the employee's spouse, child or parent (Reason 3)
- 2) and, leaves taken because of a serious health condition that makes the employee unable to perform the essential functions of his or her position (Reason 4).

An employee who takes intermittent leave or a reduced-leave schedule may be temporarily transferred to an alternative position for which he or she is qualified that has equivalent pay and benefits, and that better accommodates recurring periods of leave than does the employee's regular position.

Employees shall make a reasonable effort to schedule leaves so as to avoid unduly disrupting the operations of the College, subject to the approval of the health care provider of the employee (Reason 4) or of the employee's spouse, child or parent (Reason 3).

### **D. Certification**

The College requires a medical certification from the health care provider for leave taken for Reasons 3 or 4. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or medical care facility, or continuing treatment by a healthcare provider. The certification form may be obtained from the Department of Human Resources. The College, from time to time (generally not more often than every 30 days), requires recertification during the period of leave. Failure to provide certification or recertification may result in a delay of leave, denial of leave and/or loss of pay for the leave period. Falsification of certification is grounds for disciplinary action up to and including dismissal. The College may require, at its' expense, that the employee obtain the opinion of a second healthcare provider selected by the College concerning any information certified.

**NOTE:** No employee who has been off of work for more than three (3) days due to their own illness/injury can return to work until they have approval to do so from the

Department of Human Resources. Employees will be allowed to return to work once they have provided the Department of Human Resources with a full return to work release. Upon receiving the work release, the Department of Human Resources will notify the employee of the denial or approval and under what conditions the employee may return to work.

**E. Restoration to Position and Continuation of Benefits**

Eligible employees who return from a family and medical leave may be restored to the position held by the employee when leave began or be restored to an equivalent position with equivalent pay and College-provided benefits and other terms and conditions of employment. The College will maintain College-provided benefits for eligible employees on family or medical leave under the same terms and conditions coverage would be provided had the employee continued in employment for the duration of the leave. Retirement contributions will only be made for that portion of the family and medical leave that is paid leave.

**F. Failure to Return from Leave**

The College may recover from the employee the cost of maintaining College provided benefits during the unpaid period of leave if the employee fails to return from leave. Exceptions are if the failure to return is due to:

- 1) the continuation, recurrence, or onset of a serious health condition that would otherwise entitle the employee to leave under the family and medical leave policy,
- 2) or, other circumstances beyond the control of the employee.

**G. Other Employment**

Employees on family or medical leave are not permitted to perform services for remuneration for other employers (including self-employment), as an independent contractor, partner, sole proprietor, principal in a corporation, or for any other individual or entity, unless approved, in writing, in advance by the appropriate Vice President or the Vice President's designee. For units reporting to the President, the appropriate Vice President is the Vice President of Human Resources. Employees who have approved outside consulting/employment must obtain the approval of the appropriate Vice President to continue such services during a period of leave.

**H. Supplement to Family and Medical Leave Policy for Families of Members of the U.S. Armed Forces**

The Family and Medical Leave Act (FMLA) was recently amended to extend FMLA qualifying leave to the families of members of the U.S. Armed Forces under certain circumstances (Military Families FMLA). This Supplement provides employees' rights to such leave. Except as provided for in the recent amendments to the FMLA, an employee's rights and obligations with regard to Military Families FMLA leave are governed by Southern State Community College's existing FMLA policy.

1. Leave Entitlement

The changes to FMLA provide for two (2) new instances in which an eligible employee can qualify for FMLA leave:

- a. Because of any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call to active duty status in support of a contingency operation;
- b. If the employee is the spouse, son, daughter, parent, or next of kin of a covered service member, to care for the service member who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the service member's office, grade, rank or rating.

2. Duration of Military Families (FMLA)

The College's existing FMLA policy defines the FMLA year used (FMLA Year).

*When Leave is Due to a "Qualifying Exigency":* An eligible employee may take up to a total of twelve (12) workweeks of leave during the FMLA Year for this and any other reasons set forth in the existing FMLA policy.

*When Leave is to Care for an Eligible Service Member:* An eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve (12)-month period to care for the eligible service member. Leave to care for an eligible service member, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) workweeks in a single twelve (12)-month period. There are also limitations if both spouses are Southern State Community College employees. If leave to care for the eligible service member is not exhausted during the FMLA Year and would extend into the next FMLA Year, contact the Department of Human Resources.

**NOTE:** Military Families FMLA runs concurrently with other leave entitlements as set forth in the existing FMLA policy or as provided by federal, state or local law.

**I. Extended Leave of Absence**

A full-time (non-faculty) employee may be granted a personal leave for the purpose of gaining experience or expertise in his/her field, for advanced study, for long-term medical treatment or for other reasons approved by the Board of Trustees. Leaves of absence shall be taken without pay and the employee shall receive no benefits from the College while on leave. All benefits accrued to the employee before the leave shall be granted upon his/her return to the College. The President may consider a paid leave of absence under special circumstances.

The following conditions shall apply:

1. The duration of such a leave may be for any period up to a year.

2. Personal leave is leave without salary. Except under special circumstances, it is leave without any College-provided benefits except the fee waiver benefit, which continues during the leave.
3. Contributions to the state retirement systems (STRS, PERS, PERS-LE) are made only as allowed by law. The College will not make contributions to the Alternative Retirement Plan during a personal leave.
4. Individuals granted personal leave may continue uninterrupted health care insurance by arranging to make premium payments through the Department of Human Resources. Only the President or President's designee may authorize the continuance of health care insurance at the College's expense.
5. A request for leave of absence shall be submitted in writing to the Department of Human Resources.

Such requests shall contain:

- a. proposed dates of commencement and termination of the leave,
- b. reason (s) for requesting the leave of absence,
- c. and, a statement certifying the need for long-term medical leave, signed by the employee's physician, and whether or not the leave request is for medical reasons.