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Policy Name: Family & Medical Leave Act (FMLA)

Policy Number: I-11

Functional Area(s) Responsible: Human Resources

Owner(s) of Policy: Human Resources

Most Recent BOT Approval Date: May 2010

Most Recent Review Date: Spring 2025

Most Recent Review/Revision Type: ☐ none ☐ minor/non-substantive ☒ substantive/extensive

Policy Statement:

In compliance with the provisions of the Family & Medical Leave Act (FMLA), Finger Lakes Community College will grant up to 12 weeks of unpaid leave to eligible employees for circumstances specified by the FMLA and up to 26 work weeks of leave during a single 12-month period for military caregiver leave:

1. To care for the employee's child after birth, placement for adoption or placement for foster care
2. To care for the employee's spouse, son/daughter or parent who has a serious health condition
3. For a serious health condition that makes the employee unable to perform the employee's job
4. For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or on call to covered active-duty status.
5. To care for a covered service member with a serious injury or illness.

Military Family Leave Entitlements

Eligible employees with a spouse, child, 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.

Employees are not obligated 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.

To be eligible for FMLA benefits, an employee must have worked for the College for at least 12 months and have worked at least 1,250 hours during the previous 12 months. 12 months of employment do not have to be consecutive. All periods of absence from work to or necessitated by service in the uniformed services are counted as hours worked in determining eligibility.

Employees may choose or the College may require use of accrued paid leave while taking FMLA leave. To use paid leave, employees must comply with the College's normal paid leave policies.

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

Employees must provide sufficient information for the College to determine if the leave qualifies for FMLA protection and the anticipated timing and duration of the leave. The College is obligated to inform the employee requesting leave whether they are eligible under FMLA. If the employee is not, the notice must include the reason for ineligibility and specify any additional information required as well as the employee's rights and responsibilities.

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.

The College will not tolerate retaliation against any employee because he/she requested or used FMLA leave or complained in good faith under this policy. Any individual who feels he/she has been discriminated or retaliated against due to his/her request for or use of FMLA leave should use the reporting procedures set forth in the College's Non-Harassment/Non-Discrimination policy.

Benefits During Leave

FLCC will continue an employee's health benefits during the leave period at the same level and under the same conditions as if the employee was continuously at work.

While on paid leave, FLCC will continue to make payroll deductions to collect the employee's share of insurance premiums. While on unpaid leave, the employee must continue to make insurance premium payments to the College. If the employee contributes to a life insurance or disability plan, the company will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums to the College.

Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty clearance from a health care provider. This requirement will be included in the company's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one that is virtually identical in terms of pay, benefits and working conditions.

Reason(s) for Policy:

This policy seeks to ensure that College employees eligible for leave benefits under the FMLA are entitled to leave time, continuation of health benefits, return to job/position at the conclusion of the leave period, and protection against harassment.

Applicability of Policy:

This policy applies to all eligible College employees.

Definitions:

Serious Health Condition: any illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. This can include conditions with short-term, chronic, long-term or permanent periods of incapacity.

Spouse: A husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law or same-sex marriage. Spouse also includes a husband or wife in a marriage that was validly entered into outside of the United States if the marriage could have been entered into in at least one state.

Child: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

Parent: A biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents "in law."

Health Care Provider: (i) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices, or (ii) any other person determined by the Secretary of the Department of Labor to be capable of providing health care services. Other definitions as provided by the FMLA and applicable regulations.

Qualifying Exigencies: Includes short-notice deployment, military events and activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Sufficient information: may include that the employee is 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.

Related Documents:

Family Medical Leave Act, 29 U.S.C. § 2601 et seq.

FLCC Americans with Disabilities Act policy FLCC Equal Employment Opportunity policy

FLCC Non-Discrimination/Non-Harassment policy

Procedures:

Employees requesting leave time through the FMLA should contact the Office of Human Resources to obtain the necessary application forms and eligibility requirements.

Employees who are eligible for FMLA leave are entitled to leave time, continuation of health benefits, job restoration after leave and protection against harassment or retaliation.

At the College's or employee's option, certain kinds of accrued paid leave may be substituted for unpaid leave during FMLA leave. Please refer to the policies governing those types of leave for further details.

Forms/Online Processes:

FMLA Application form

Appendix:

None