

COLUMBUS STATE COMMUNITY COLLEGE  
POLICY AND PROCEDURES MANUAL

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FAMILY AND MEDICAL LEAVE

Effective August 11, 2016

Procedure 3-36 (D)

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- (1) The College has adopted the following procedures to administer Family and Medical Leave (FML) in accordance with federal law.
  
- (2) DEFINITIONS
  - (a) Eligibility: In order to be eligible for FML, a full-time employee must have been employed by the College for one (1) year and have worked 1,250 hours during the twelve (12) months preceding the start of FML. The twelve (12) months do not need to be consecutive months of service; previous service with the College may be counted. However, periods of employment that occurred prior to a break in service of seven (7) years or more do not need to be counted in determining if an employee has been employed by the College for at least twelve (12) months unless:
    - (i) The employee's break in service was due to the employee's fulfillment of military service obligations.
    - (ii) A written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service.
  
  - (b) Health Care Provider: To certify FML, the provider must be licensed by the state to deliver health care services within the scope of his/her practice. A health care provider may be a doctor of medicine or osteopathy, dentist, clinical psychologist, social worker, optometrist, podiatrist, chiropractor, nurse practitioner, nurse-midwife, or Christian Science practitioner.
  
  - (c) Immediate Family: For purposes of this section, includes: parent, sibling, grandparent, child, spouse, parents-in-law, children-in-law, sibling-in-law, grandchild, stepparents, stepchildren, a legal guardian or other person who stands in the place of a parent, other persons residing in the home of the employee, or a domestic partner. To use FML for a domestic partner who has a serious health condition, a completed and notarized Affidavit of Domestic Partnership form must be on file with the Human Resources Department.
  
  - (d) Spouse: For purposes of Policy 3-36 and this procedure only, "spouse" is defined as individuals in lawfully recognized same-sex marriages and common law marriages. Lawful recognition is based on the applicable law in the jurisdiction in which the marriage occurred.

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- (e) **HR Leave Coordinator:** Designated employee in the Human Resources Department who manages FML claims for the College. The HR Leave Coordinator will manage the following services on behalf of the College:
  - (i) Conducting initial intake process to establish FML claims, determine eligibility and entitlement of benefits for FML.
  - (ii) Sending all FML paperwork, including the FML a rights and responsibility packet.
  - (iii) Accepting employee absence notifications for intermittent FML.
  - (iv) Notifying supervisors of their employees' FML reported absences.
  - (v) Tracking FML hours.
  - (vi) Maintaining FML records and other documentation.
- (f) **Medical Certification:** A request for FML for a serious health condition must be substantiated with satisfactory certification from the appropriate health care provider. A health care provider certification form may be obtained by contacting the HR Leave Coordinator. Claims must be initiated either by completing the FML Request Form or by contacting the HR Leave Coordinator directly to talk about the impending leave needed by the employee.
- (g) **Need to Care for a Family Member:** Encompasses both physical and psychological care as certified by an authorized health care provider. This includes situations where a family member is in a state of incapacity and unable to provide his or her own medical, hygienic, nutritional, safety, and/or transportation needs.
- (h) **Serious Health Condition:** In order to qualify for FML, an employee must provide documentation that meets one of the following criteria:
  - (i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity (defined as inability to work, attend school, or perform other regular daily activities), or any subsequent treatment in connection with such inpatient care.

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- (ii) Continuing treatment by a health care provider: a period of incapacity of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
  - 1. Treatment of two (2) or more times by a health care provider, within thirty (30) days of the first (1<sup>st</sup>) day of incapacity.
  - 2. Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment.
- (iii) A period of incapacity due to pregnancy or for prenatal care.
- (iv) A period of incapacity or treatment for a chronic, serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period, and may cause episodic rather than a continuing period of incapacity.
- (v) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member need not be receiving active treatment by a health care provider (e.g., Alzheimer's disease, terminal cancer).
- (vi) A period of absence to receive multiple treatments for an injury or condition which would result in incapacitation of more than three (3) consecutive days if not treated.
- (i) Military Caregiver Leave: Eligible employees with an immediate family member on covered active duty or called to covered active duty status in the National Guard or reserves in support of a contingency operation may use their twelve (12)-week FML entitlement to address certain qualifying exigencies. Qualifying exigencies may include:
  - (i) Short notice deployment and attending post-deployment reintegration briefings.
  - (ii) Attending certain military events and related activities.
  - (iii) Arranging for alternative childcare.
  - (iv) Addressing certain financial and legal arrangements.
  - (v) Attending certain counseling sessions.
  - (vi) Rest and recuperation.

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FML includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve (12)-month period.

- (j) **Covered Service Member:** A current 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; or a veteran who was discharged or released under conditions other than dishonorable at any time during the five (5)-year period prior to the first date the eligible employee takes FML leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.
- (k) **Sick leave:** Paid leave that is used in the event of personal illness or injury; or illness, injury, or death of an immediate family member. Usage must be approved in accordance with College Policy 3-10.

(3) APPLICATION AND UTILIZATION OF FAMILY MEDICAL LEAVE

- (a) All leave requests that meet the FML criteria will be considered FML for the purpose of calculating the twelve (12)-week entitlement period. If an employee is absent from work for more than three (3) consecutive days, he/she may be eligible for FML. The employee must report his/her absence by:
  - (i) Notifying his/her supervisor of the absence within one (1) hour of reporting time and that the absence may be, or is FML qualifying; and
  - (ii) Notifying the HR Leave Coordinator of the absence by telephone or through email within three (3) days of the absence.
- (b) In the event that an employee is unable to communicate with his/her supervisor or the HR Leave Coordinator, a designated family member may make the notifications.
  - (i) In the event of a planned absence, an employee must notify the HR Leave Coordinator at least thirty (30) days in advance of the anticipated reason, duration, and start date. If advance notice is not provided, the HR Leave Coordinator may deny or delay the start of the leave.
  - (i) If the need for leave is foreseeable and more than thirty (30) days in advance, the employee must provide notice as soon as possible, either the same or next business day. All employees must comply with the normal call-in procedures of their department as specified by the supervisor or unit of operation.

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- (c) The HR Leave Coordinator shall inform the employee of his or her rights and obligations when requesting leave for reasons that meet (or appear to meet) FML requirements.
- (d) The employee must provide medical certification to the HR Leave Coordinator, within fifteen (15) calendar days after receiving the FMLA Rights and Responsibilities packet. Before approving FML, the College reserves the right to require a second medical certification from a health care provider. This will be done at the College's expense. If the first and second opinions differ significantly, the College reserves the right to request that the employee obtain a final and binding third opinion of a jointly selected health care provider whose fee will be paid by the College. The HR Leave Coordinator may request recertification with updated information if a condition persists or changes. Certifications are valid for one (1) year from the date the initial certification is obtained.
- (e) When leave is designated as FML, the HR Leave Coordinator shall notify the employee in writing of such designation within five (5) business of the employee's request for leave.
- (f) The HR Leave Coordinator shall keep records of employee FML balances, and all employees and their supervisors shall have access to the FML balance by contacting the HR Leave Coordinator directly to obtain the information. The College will maintain records of all other leave balances separately.
- (g) If the employee is unable to return to his or her job at the scheduled termination of the leave, but still has available FML, the employee must contact the HR Leave Coordinator to provide additional information to support the need for additional FML. If leave is needed beyond the twelve (12)-week FML period, an employee may be eligible for long-term disability benefits (LTD). The employee should contact the Human Resources Department prior to the expiration of the twelve (12) weeks of FML to discuss possible options.

(4) CALCULATION OF AVAILABLE LEAVE

FML balances are determined on a rolling twelve (12)-month period, measured backward from the date FML is used. For example, if an employee has taken eight (8) weeks of leave during the past twelve (12) months, the employee still has an available balance of four (4) weeks. FML hours used will be restored on the anniversary date of when the leave was used (i.e., if two (2) hours are used in January 2014, then two (2) hours will be restored to the FML balance effective January 2015, on the exact date the leave was used in the previous year).

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(5) RELATIONSHIP TO PAID OR UNPAID LEAVE

An employee taking FML shall, while on FML, utilize his or her accumulated sick leave first, if the leave meets the criteria for taking sick leave. Sick leave is available only in instances where the employee or a member of the immediate family is ill pursuant to College Policy 3-10. The employee may then use his or her vacation leave or personal business leave. Any use of leave while on FML must meet the criteria of the College's policies and procedures for those leaves. Leave will be processed utilizing accrued sick leave first then vacation leave. If sick and vacation leave balances are insufficient, FML may be taken as leave without pay. If an employee is absent from work due to a work-related injury and receives lost-time compensation from the Bureau of Workers' Compensation, that employee is not eligible to use sick leave or receive pay from the College for any absence related to the work-related injury for which he/she receives lost-time compensation. However, this time will be tracked as FML time.

(6) INTERMITTENT OR REDUCED LEAVE

In some circumstances FML may be taken intermittently or on a reduced schedule, as approved.

- (a) Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member, or because of the employee's own serious health condition.
- (b) Intermittent, reduced or modified schedule leave to care for a newborn or newly placed adopted or foster care child may be taken only with the approval of the appropriate supervisor upon the submission of a written request by the employee.
- (c) Only the amount of leave actually taken while on intermittent/reduced schedule leave will be charged as FML. Employees will not be required to take more FML than necessary to address the circumstances that cause the need for leave. FML for periods of less than a full day will be accounted for in quarter (1/4) hour increments.
- (d) An employee needing intermittent/reduced schedule leave for foreseeable medical treatment must coordinate with his or her supervisor and schedule the leave so as not to unduly disrupt the operations of the work unit, subject to the approval of the employee's health care provider. Where such leave is needed, the College may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodate recurring periods of leave.

(7) RETURN TO WORK AND MAINTENANCE OF BENEFITS

- (a) When FML is concluded, the employee will be returned to the same or an equivalent position with equivalent pay, benefits, and other terms of employment, with the possible exception of key employees.

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- (b) Employees must submit to the Human Resources Department a written release completed by their health care provider prior to their return to work. This release must clearly state when the employee is able to return to work and whether the employee has any restrictions in performing his/her regular job duties. The release should be submitted in advance of the employee's return to work if possible, but no later than the employee's first day back to work. Reasonable attempts will be made to restore an employee to the same position as he/she held prior to FML.
- (c) The use of FML will not result in the loss of any employment benefit that had accrued prior to the start of the employee's leave.
- (d) In accordance with the Federal Family and Medical Leave Act (FMLA), the College reserves the right to withhold reinstatement to certain "key employees," as that term is defined by federal law, under the conditions and procedures established by the FMLA. At the College, key employees are the President, Senior Vice Presidents, Vice Presidents and Executive Directors.
- (e) Health insurance and other benefits will be continued during FML according to the prevailing coverage provisions, subject to changes that may occur within the group plan while the individual is on leave. Employees taking FML using unpaid leave will be responsible for their portion of health care benefits. An invoice will be sent to the employee from Business Services to indicate the amount required for payment in order to continue coverage.
- (f) An employee's failure to return to work at the conclusion of the twelve (12) weeks provided for in this procedure may result in the employee being terminated for cause. However, if the employee has other leave (sick, vacation, or personal) available to cover the additional time needed for a serious medical condition of the employee or an immediate family member, the employee's employment will continue pursuant to the College policies and procedures governing the leave requested. As long as the employee has sufficient paid leave available to cover the additional leave, he or she will be afforded the same reinstatement rights he or she would have had upon returning at the conclusion of the twelve (12) weeks of FML. If an employee cannot return to work and is without additional leave, he or she may apply for an unpaid leave of absence pursuant to College Policy 3-13 or apply for disability retirement through the appropriate retirement system. The denial or granting of a request for such leave will be based upon the considerations set forth in that policy and its procedures.
- (g) Employees on approved FML for their own serious health condition may not work for any other employer during the period of approved FML.

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- (h) Any requests to work from home while on a FML absence will be considered on a case-by-case basis and may require additional documentation for approval.

*Last Effective Date: August 21, 2000*

*\*June 7, 2018: Administrative changes made to reflect updated process*