

COLORADO COMMUNITY COLLEGE SYSTEM

SYSTEM PRESIDENT'S PROCEDURE

FAMILY AND MEDICAL LEAVE

SP 3-60a

Effective: August 5, 1993
Retitled: September 14, 2000
Retitled: August 25, 2001
Retitled: January 28, 2008

Reference:
Board Policy on Employee Benefits, BP 3-60

Approved:

Nancy McCallin, System President

Application:

This procedure applies to state system community colleges and system office exempt staff who meet the eligibility requirements specified below. Such employees shall be entitled to 12 weeks of leave during a 12-month period for the birth and first year care of a child; the adoption or foster placement of a child in the employee's home; or the serious health condition of the employee, his/her spouse, child, or parent.

Employees with an immediate family member (spouse, child or parent) who is on or has been called to active duty in the Armed Forces in support of a contingency operation may use any of their 12 weeks of FMLA leave when they have a "qualifying exigency." In addition, employees may be granted up to 26 weeks of FMLA leave during a 12-month period when providing care to family members (spouse, parent, child, next of kin) with illness or injury incurred in the line of duty while in the Armed Forces, National Guard or Reserves.

PROCEDURE: FAMILY AND MEDICAL LEAVE

1. To be eligible for family and medical leave employees must provide 30 days notice to the college/system office for foreseeable family leaves such as childbirth, adoption, or planned medical treatment, if possible; must have been employed by the college/system office for at least one year; and must have worked at least 1,250 hours during the previous 12 months.

2. The college/system office shall continue health care coverage by continuing to pay the college's/system office's share of the cost while the employee is on family and medical leave. If the employee chooses family coverage, the employee will be required to make payments to the college/system office for family coverage at the same rate as if actively working.
3. Upon return from the family and medical leave, the employee shall be returned to the same or a comparable position.
4. Employees may be required to use annual and/or sick leave before being eligible for unpaid family and medical leave, except that sick leave may be used only when the employee is medically unable to work or for family sick leave as defined by BP 3-60. Both paid and unpaid leave are included in the 12-week limitation. Serious health conditions means an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. The term is not intended to cover short-term conditions, for which treatment and recovery are very brief. Typical serious health conditions triggering eligibility for the leave include: heart attack, heart surgery, strokes, severe nervous disorders, complications resulting from pregnancy, and cancer.
5. The college/system office may require doctor's certification to verify a serious health condition which necessitates paid or unpaid leave in excess of five days; and may require, at the college's/system office's expense, a second medical opinion. To continue family and medical leave due to the serious health condition of the employee or a family member beyond 30 days, a monthly recertification may be required.
6. Husbands and wives employed by the System are limited to 12 total weeks of family and medical leave unless the leave is for a seriously ill spouse or child or for the employee's own serious illness. In those cases, the husband and wife are each entitled to twelve weeks of leave.
7. If justified by a medical necessity and requested, intermittent leave or a reduced work schedule shall be approved for a serious health condition of the employee, employee's spouse or immediate family member. Intermittent leave or a reduced work schedule may be permitted by the president for childbirth, adoption or foster placement of a child provided the total leave period does not exceed a 12 calendar week period.
8. The college/system office may temporarily transfer an employee who is on approved family and medical leave to an available alternative position with equivalent pay and benefits if it better accommodates the reduced work schedule.

Attachment(s): Notice Certificate

**YOUR RIGHTS
UNDER THE
FAMILY AND MEDICAL LEAVE ACT OF 1993**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons,. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

REASONS FOR TAKING LEAVE: Unpaid leave must be granted for any of the following reasons:

- to care for the employee’s child after birth, or placement for adoption or foster care;
- to care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employees job.

At the employee’s or employer’s option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is “foreseeable”.

An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer’s expense) and a fitness for duty report to return to work.

JOB BENEFITS AND PROTECTION:

- For the duration of FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan.”
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS: FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- 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.

ENFORCEMENT:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring civil action against an employer for violations.

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.

FOR ADDITIONAL INFORMATION: Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.