



Procedure 410-10 Family Medical Leave Act (FMLA)

Sponsor: Human Resources

Purpose

The Family Medical Leave Act (FMLA) entitles eligible employees to take up to a total of 12 workweeks of job-protected, unpaid leave, or to substitute accrued paid leave, during a 12-month period for certain health-related events.

Definitions

Leave Bank Any accrued paid time off accumulated by the employee. This typically includes sick time, vacation time and compensatory time.

Procedure

Eligibility

Eligible employees are those who meet the following requirements and are issued a Notice of Eligibility & Rights and Responsibilities under the Family and Medical Leave Act Form (WH-381) by Human Resources:

1. An employee who has been employed for at least 12 months (52 weeks) by the College and
2. An employee who has been employed for at least 1,250 hours of service with the College during the previous 12-month period.
3. The employee meets one, or more, of the eligibility requirements listed on the WH-381 and where appropriate, provides a completed Certification of Health Care Provider for Employee's Serious Health Condition form WH 380-E or a Certification of Health Care Provider for Family Member's Serious Health Condition form WH 380-F.

Upon eligibility, the employee is then issued a Designation Notice WH-382 detailing the specifics of the approved leave by the Human Resources Department. If the employee is not eligible, he/she will receive a Notice of Eligibility & Rights and Responsibilities under the Family and Medical Leave Act Form (WH-381) designating why they are not eligible.

12- Months of Employment

The 12 months of employment do not have to be consecutive. This means any time previously worked for CCC could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, outlining the Colleges' intention to rehire the employee after the break in service.

1,250 Hours of Service

For purposes of determining FMLA eligibility, "hours of service" means hours that the employee actually worked. This does not include vacations, holidays, sick days or other situations where the employee was away from work (whether paid or unpaid). In addition, the 1250-hour requirement must be met within the 12-month period before the start of leave.

Scope of Benefit

An eligible employee may request up to a total of 12 work weeks based upon the employee's normally scheduled work period (i.e. 32 hours / 40 hours per week) of leave during a rolling year. That is, the 12-month period is measured backward from the date an employee uses any FMLA leave. Thus, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the twelve weeks not used during the immediately preceding 12 months.

FMLA may be used for one or more of the following reasons:

1. The birth of a child and to bond with the newborn child within one year of birth.
2. The placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement.
3. To care for the spouse, or child, or parent of an employee if such spouse, child, or parent has a serious health condition.
4. A serious health condition makes the employee unable to perform the essential functions of the position of such employee.
5. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty.
6. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

Workers Compensation Leave

While the employee is on workers compensation leave, intermittent or full day, FMLA will run concurrently.

Intermittent Period of Leave

Leave may be taken intermittently based upon FMLA requirements, documentation and subject to employer approval if necessary. Employees may use FMLA leave in the smallest increment of time used by the colleges' payroll department for other types of leave, such as vacation or sick time which is in 15-minute increments for non-exempt and exempt employees.

Retroactive Designation of FMLA Leave

If the college is not informed in a timely fashion of qualified FMLA leave, the college may retroactively designate employee missed time as FMLA via written notice of the retroactive designation providing it does not cause harm or injury to the employee.

How to Request FMLA Leave

Employees requesting FMLA leave must contact Human Resources directly. They will be asked to complete the FMLA forms provided by Human Resources which may include the WH 380-E, WH 380-F, and the college's request forms. The college's request form can also be obtained via the College intranet.

Notice of Leave

The college requests that for known upcoming leave events, a 30-day notice to allow the college time to ensure business continuity while the employee is absent. In the event of a sudden or emergency leave need, short-term notice is acceptable. The employee, or their family designee, will work directly with Human Resources in such emergency events.

Employee notification

With each request for FMLA leave, the employee shall be notified:

1. About FMLA by provision of the FMLA fact sheet.
2. As appropriate concerning the expectations, obligations, and consequences of taking FMLA leave per 29 C.F.R. 825.301 of FMLA.
3. That FMLA leave may be withheld until a requested notice is provided or the time frame is met.
4. That if leave is granted to an employee who is unable to perform the work required, restoration may be denied until the employee has complied with the request to provide medical certification of ability to return to work.

The College will post notices in conspicuous places on College premises that provide a summary of FMLA and information on how to file a charge for an FMLA violation.

Medical Certification Requirements

In addition to the Leave Request form, all FMLA requests, except requests for leave for the birth or adoption of a child, including bonding, must be accompanied by the College's "Request for Family Medical Leave" form and a completed Physician certification form WH 380-E or WH 380-F as provided by Human Resources

Americans with Disabilities Act

Nothing in this procedure shall negate the College's obligations under the Americans with Disabilities Act (ADA).

Compensation and Benefits during FMLA Leave

The employee must substitute any accrued compensatory time and then sick time, sick leave reserve time, and vacation time for any part of the FMLA leave. While on FMLA leave, the employees' medical, dental, vision, and life insurance coverage will remain in place with the appropriate deductions removed from the employees' paycheck. All other deductions will also continue, including supplemental benefit elections. The accrual of vacation time and paid holidays will continue during the leave. Note: Sick time will not accrue while on leave as it is based upon hours worked.

In the circumstance that an employees' available pay is exhausted or is not enough to cover all benefit costs, the employee's leave bank will be used to cover the necessary employee benefit deductions. If the leave bank is unable to cover the monies due, the employee will be invoiced monthly for the employee cost of their benefits and have 30 days to pay from the invoice date. Please note, failure to pay will result in the dropping of the unpaid employee benefits upon issuance of a 15-day non-payment notice.

When leave balances are exhausted, employees are recommended to review Procedure 410-17 Donated Leave and work with Human Resources to determine their potential eligibility for the benefit.

Return from FMLA Leave

Employees on FMLA for their own serious health condition are to furnish Human Resources with a return to work physicians' statement prior to their first day back. Failure to do so will result in the employee being sent home until the documentation is received to help ensure employee safety.

Upon unrestricted return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. If the employee is returned to work with restrictions that prevent the employee from performing their essential job functions, the College may deny the return to work request.

An employee on FMLA leave is not protected from actions that would have affected him or her if the employee was not on FMLA leave. For example, if a shift, or position, has been eliminated, an employee would not be entitled to return to work for that shift or position.

Employee Status when FMLA is exhausted

If the employee is unable to perform the essential duties of their role and return to work upon exhaustion of their FMLA benefit, the employee will be placed on unpaid status and will meet with Human Resources to determine their employment future status. If an employee fails to return to work when requested, he/she will be considered to have voluntarily resigned from their role.

References

Americans with Disabilities Act (ADA)

U.S. Department of Labor Fact Sheets 28M(b) and 28M(c)

U.S. Department of Labor FMLA Forms WH-381, WH-382, WH-380-E, and WH-380-F

Procedure 410-17 Donated Leave

Procedure History

04/1995 New

07/01/2001 Revised

06/23/2009 Reformatted

03/06/2019 Reformatted and Approved by College Council

03/30/2021 Revised and Approved by Executive Leadership Council

Legal Review

10/19/2020

03/12/2021