

4-17: Faculty and Exempt Staff Family Medical Leave

* Issued: 6-03

* Revised:

I. PURPOSE

In accordance with the requirements of the Family and Medical Leave Act of 1993, as amended, the College has established family medical leave. This policy shall not be construed to reduce other forms of leave established by the College which are available to employees for purposes of attending to family and medical concerns. In all cases this policy shall be construed in such manner to comply with the Family and Medical Leave Act of 1993.

II. DEFINITIONS

For purposes of this policy, the following words and terms shall have the meanings prescribed:

A. "Employee" shall mean all faculty and exempt staff of the College.

B. "Eligible employee" shall mean an employee who:

1. Has been employed by the College for at least 12 months; and
2. Has been engaged in no less than 1,250 hours of work for the College during the year immediately preceding the initial date of the re-requested leave; and
3. Has not exhausted his/her right to leave under this policy during the year immediately preceding the initial date of the requested leave.

C. "Son or daughter" shall mean a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in Loco Parentis, who is:

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of mental or physical disability.

D. "Parent" shall mean the biological parent of an employee or an individual who stood in Loco Parentis to an employee when the employee was a son or daughter

E. "Serious health condition" shall mean an illness, injury, impairment, or physical or mental condition that involves.

1. Inpatient care in a hospital, hospice, or residential medical care facility; or

2. Continuing treatment by a health care provider.

F. "Health care provider" shall mean

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or

2. Any other person determined by the Secretary of the U.S. Department of Labor to be capable of providing health care services.

G. "Spouse" shall mean a husband or wife, as recognized by the laws of the State of Colorado, as the case may be.

H. "Week" shall mean seven consecutive calendar days.

I. "Year" shall mean three hundred sixty- five consecutive calendar days.

III. POLICY

A. Eligibility and Duration

Eligible employees shall be entitled to receive a family and/or medical unpaid leave of absence for up to twelve weeks per year for any of the following purposes:

1. Because of the birth of a son or daughter of the eligible employee and in order to care for such son or daughter.

2. Because of the placement of a son or daughter with the employee for adoption or foster care.

3. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition. Because of the employee's own serious health condition, which prevents the continued performance of assigned duties.

4. Because of the employee's own serious health condition, which prevents the continued performance of assigned duties.

Eligibility for the leave purposes described in 1. and 2. shall expire at the end of the year beginning on the date of the birth or placement of the son or daughter.

B. Intermittent or Partial Leave

Leaves taken for the purposes described in 1. and 2. above, shall not be taken on an intermittent or partial day basis unless approved by the appropriate vice president or dean. An employee may take leave for the purposes described in 3. and 4. above, that is foreseeable based on planned medical treatment, on an intermittent or partial day basis subject to the right of the College to transfer the employee temporarily to an available alternative position for which the employee is

qualified, as determined by the appropriate vice president or dean, so long as the position has equivalent pay and benefits, and better accommodates recurring periods of leave than the regular employment position of the employee, as determined by the College.

C. Coordination with Other Leaves

Prior to taking any leave under this policy, employees shall be required to exhaust all other applicable or available accrued and unused leave benefits under paid leave policies of the College. The use of paid leave benefits shall not extend the length of the leave otherwise available hereunder.

D. Reinstatement

Employees taking authorized leave hereunder shall be entitled to work at the end of the authorized leave in the position held at the time of commencement of the leave or to a position with equivalent duties, pay, benefits, and other terms and conditions of employment, as determined by the College. The College reserves the right to deny reinstatement to any employee who is among the highest paid ten percent of the employees of the College if such denial is necessary to prevent substantial and grievous economic injury to the operations of the College, provided the College shall notify the employee of such intent to deny reinstatement at the time the College determines that such injury would occur. The College reserves the right to deny accrual of employment status and benefit rights during the period of the leave, except rights or benefits earned prior to the leave which the employee would have been eligible to receive but for the leave. In the event that an employee elects not to return upon completion of an approved unpaid leave of absence, the College may recover from the employee the cost of any payments made to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control as determined in the reasonable discretion of the College. Benefit entitlement based upon length of service will be calculated as of the last paid work day prior to the start of the unpaid leave of absence.

E. Certification of Eligibility

The College reserves the right to require a completed certification by a health care provider to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent or verify an employee's ability to return to work and resume the duties of the employee's position. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform the functions of his or her position. For leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated. In its discretion, the College may require a second medical opinion and periodic rectification at its own expense. If the first and second opinions differ, the College, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the College and the employee.

F. Reporting

The College reserves the right to require any employee utilizing the benefits of this leave policy to provide periodic written reports on the continuing status of the employee's eligibility to use the leave and/or the employee's intentions with respect to return to work.

G. Spousal Co-employment

Spouses who are both employed by the College are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child or for the care of a sick parent.

H. Notice

When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide reasonable prior notice, and make efforts to schedule leave so as to not disrupt College operations.

IV. PROCEDURES

A request for leave hereunder must be originated in duplicate by the employee on a form provided by the Human Resources Office. This form should be completed in detail, signed by the employee, submitted to the immediate supervisor for proper approvals and be forwarded to the Human Resources Office. To the extent feasible, the form must be submitted thirty (30) days in advance of the initial date of the leave. All requests for family and medical leaves of absence due to illness must include the appropriate certification by a health care provider.

V. LEAVE OF ABSENCE WITH PAY/WITHOUT PAY

Leave of absence without pay may be granted to members of the exempt staff by the Board of Trustees for Fort Lewis College upon the recommendation of the President of the College. Applications must be submitted to the President through the appropriate administrative Vice President or Vice President of Student Affairs. Each application is decided upon its individual merit after consideration of the advantages and disadvantages to the employee and the College. Leave is granted for not more than the period of one year.

Employees on authorized leave, if enrolled in the insurance program, will receive insurance benefits during the period of leave of absence, provided they continue to pay the required insurance premiums.

Employees will accrue normal leave accrual benefits while on leave with pay, but will not be eligible to use them until they have returned to work for 20 days. However, if an employee is on leave of absence without pay he/she may not accrue vacation or sick leave.