



OPERATING PROCEDURES

SUBJECT: **FAMILY AND MEDICAL LEAVE ACT OF 1993 PROCEDURE**

PURPOSE

The Family and Medical Leave Act requires Northwest Florida State College 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 the College for 1,250 hours over the previous 12 months. The 12-month period for NWFSC employees began on August 5, 1993. Succeeding 12-month periods will be a rolling twelve-month period measured backward from the date an employee uses FMLA leave.

REASONS FOR TAKING LEAVE

The College must grant unpaid leave to an eligible employee for one or more of the following reasons:

- for the care of the employee's child (birth, or placement for adoption or foster care); leave must conclude within 12 months of birth and may be taken by either parent.
- for care of the employee's spouse, son or daughter, stepchildren, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform his/her job. A "serious health condition" means illness, injury, impairment or a physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider.

SUBSTITUTION OF PAID LEAVE

FMLA leave is generally unpaid leave. However, substitution of paid accrued annual or sick leave **MUST** be made for all or part of any unpaid leave. Accrued sick leave must be used for the employee's own serious health condition or to care for a seriously-ill immediate family member. An immediate family member is a spouse, father, mother, siblings, or children. When an employee's leave is exhausted, the College is required to provide enough unpaid leave to total 12 weeks. For example, sick leave for the birth of a child would be considered FMLA leave and counted in the 12 weeks of leave permitted under FMLA. If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave entitlement.

SPOUSE'S JOINT LEAVE

Spouses employed by the same employer are jointly entitled to a **combined** total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

ADVANCE NOTICE AND MEDICAL CERTIFICATION.

The employee will be required to provide advance leave notice and medical certification.

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



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- The College will require medical certification to support a request for leave because of a serious health condition.
- The College will require medical certification if the employee is unable to return from leave because of a serious health condition.
- A request for Family and Medical Leave of Absence Form must be signed by the employee, supervisor, department head, and appropriate Vice President, and forwarded to the Human Resources Office. The minimum amount of time increment provided for FMLA leave is one hour, and FMLA time used should be recorded on the time sheet for non-exempt personnel. Employees must keep their supervisor informed of their leave status and expected date of return to work. Automatic renewal of FMLA leave is not permitted. A "fitness for duty" certification from the health care provider/physician is required before an employee is reinstated. Leave may be denied if requirements are not met.
- Employees are required to submit a Medical Certification Form supporting the need for leave due to a serious health condition affecting the employee or employee's spouse, child, or parent. NWFSC may request second or third medical opinions and periodic recertification (at NWFSC's expense), as appropriate. The third opinion is final and binding.

INTERMITTENT OR REDUCED LEAVE

The employee is encouraged to coordinate intermittent or reduced leave with immediate supervisors prior to effective date.

- An employee may take intermittent leave or may work a reduced leave schedule to reduce the usual number of hours per day or work week.
- Intermittent or reduced leave schedules are subject to employer approval unless medically necessary.

JOBS AND BENEFIT PROTECTION

- 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.
- The use of unpaid FMLA leave cannot affect the exempt status of bona fide executive, administrative and professional employees under the Fair Labor Standards Act.
- The employee will not accrue vacation and sick leave during unpaid family leave.

MEDICAL INSURANCE COVERAGE

- For the duration of the FMLA leave, the College must maintain the employee's medical insurance coverage under any "group health plan" with the conditions that, if the employee had continued working, coverage would have been provided. NWFSC will maintain the employee's portion of health insurance coverage. Employees will be responsible for dependent health insurance.



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- The College will recover premiums paid for maintaining an employee's health coverage if the employee fails to return to work from FMLA leave.

UNLAWFUL ACTS

- The FMLA makes it unlawful for the College 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; and
- discharge or discriminate against any person because of involvement in any proceeding under, or related to, FMLA.

RESTRICTIONS

- Employees are not eligible to draw unemployment compensation benefits while on family leave.
- Employees are not eligible to use the sick leave pool as part of the family leave.
- The FMLA Act is not intended to cover short-term conditions for which treatment and recovery are very brief.