

Personnel

Board of Trustees Policy

SUBJECT: Family & Medical Leave Act (FMLA)	NUMBER: 2.4
	DATE: March 18, 2013
	SUPERSEDES: 12/20/93, Resolution #93-133; revised 5/18/09, Resolution #09-42

This policy directly relates to the Family & Medical Leave Act (FMLA) of the SUNY Schenectady Board of Trustees, as hereto attached.

**PERSONNEL POLICIES OF THE BOARD OF TRUSTEES
SUNY Schenectady
FAMILY & MEDICAL LEAVE**

1. Pursuant to the Family and Medical Leave Act of 1993, eligible staff members shall be entitled to a total of twelve (12) work weeks of unpaid leave during any 12-month period for one or more of the following:
 - a. Because of the birth of a son or daughter of the staff member and in order to care for such son or daughter. Such leave entitlement shall expire at the end of the 12-month period beginning on the date of such child's birth.
 - b. Because of the placement of a child with the staff member for adoption or foster care. Such leave entitlement shall expire at the end of the 12-month period beginning on the date of such child's placement.
 - c. In order to care for the spouse, a son, daughter or parent of the staff member, if such spouse, son, daughter, or parent has a serious health condition.
 - d. Because of a serious health condition of the staff member that makes him/her unable to perform the functions of his/her position.
 - e. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying event as identified in the implementing rules and regulations for the statute.*

*** Military Family Leave Provisions**

The Family and Medical Leave Act was amended by the National Defense Authorization Act for FY 2008 (2008 NDAA) and the National Defense Authorization Act for FY 2010 (2010 NDAA) to provide two important leave entitlements that benefit military families.

Qualifying Exigency Leave

Eligible employees who are the spouse, son, daughter, or parent of a military member may take up to 12 weeks of FMLA leave during any 12-month period to address the most common issues that arise when a military member is deployed to a foreign country, such as attending military sponsored functions, making appropriate financial and legal arrangements, and arranging for alternative childcare. This provision applies to the families of members of both the active duty and reserve components of the Armed Forces.

Military Caregiver Leave

Eligible employees who are the spouse, son, daughter, parent or next of kin of a covered service member may take up to 26 weeks of FMLA leave during a single 12-month period to care for the service member 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

incurred or aggravated in the line of duty on active duty. This provision applies to the families of members of both the active duty and reserve components of the Armed Forces.

An eligible staff member will first be required to substitute any accrued vacation leave and personal leave when leave is taken pursuant to paragraphs (a), (b), (c), and (e) above and sick leave when the leave is taken pursuant to subsection (d) above.

2. Definitions

a. "Eligible" staff member shall mean:

- (1) A staff member who has been employed by the College for at least twelve months prior to requesting leave or
- (2) a staff member who has been employed for at least 1250 hours of service during the previous twelve month period.

b. "Serious Health Condition" shall mean an illness, injury, impairment, or 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.

3. Notice

a. Where the leave provided for hereunder is foreseeable based on an expected birth or child placement, the staff member shall provide at least thirty (30) days notice before the leave is to begin to his/her immediate supervisor.

b. Where the leave provided for hereunder is foreseeable based on planned medical treatment, the staff member shall schedule the treatment so as not to disrupt the operations of the College and shall provide his/her immediate supervisor with at least thirty (30) days notice before the leave is to begin.

c. Timely notification as required by this section may be waived by the President or his/her designee upon receipt of evidence satisfactory to the President or his/her designee that a staff member was unable to make such timely notification him/herself or by agent because of unforeseen and unanticipated circumstances beyond the control of such staff member.

d. An eligible staff member requesting leave hereunder will be given the following written notice by the Coordinator of Personnel in conjunction with the staff member's supervising Dean:

- (1) designating the leave as Family and Medical Leave;
- (2) that the leave will be counted against his/her annual entitlement;
- (3) of any medical certification required and the consequence of his/her failure to provide such medical certification;
- (4) that the staff member will be required first to utilize accumulated vacation and personal leave during the leaves taken under 1.a., b. c. and e. above and additionally, where the leave is due to a serious medical condition of a staff member, accumulated sick leave must first be utilized;
- (5) any health insurance premium contribution that will be required to be made by the staff member during the leave;
- (6) any medical certification that may be required prior to return to duty;
- (7) the staff member's right to restoration to the same or an equivalent job upon return from leave;
- (8) the staff member's liability for payment of health insurance premiums paid by the College during the staff member's unpaid leave, if the staff member fails to return to work after taking the leave.

4. Medical Certification

The College may require that the staff member provide medical certification by the health care

provider of the individual receiving treatment. If the College doubts the validity of the medical certification provided by the staff member, the College at its expense may direct the staff member to obtain the opinion of a second health care provider designated by the College. When the second medical certification differs from the first, the College may direct at its expense, the staff member obtain a third opinion from a health care provider approved jointly by the College and the staff member. The third medical certification shall be considered to be final and binding on the College and the staff member. The College may require subsequent periodic recertification on a reasonable basis. Failure to submit any medical certification requested within fifteen (15) calendar days of the request, may result in the leave being denied until medical certification is submitted. In the event leave is taken because of a serious health condition of the staff member, the College may require prior to the staff member's return, medical certification by a health care provider that the staff member is able to resume work.

5. Maintenance of Health Benefits

- a. Except as provided in paragraph "b" hereafter during any period that an eligible staff member takes leave pursuant to this section, the College will maintain coverage under any group health plan in which the staff member participates for the duration of such leave at the level and under the conditions coverage would have been provided if the staff member had continued in employment continuously for the duration of such leave. The staff member shall be billed directly by the College for his/her percentage share of the cost of such coverage, if any, during the period of the leave.
- b. In the event the staff member fails to return from leave, the College will recover the premium that the College paid for maintaining coverage for the staff member under such group health plan during the period of unpaid leave, provided the staff member's failure to return is not due to a continuation, recurrence, or onset of a serious health condition that would have entitled the staff member to leave under this section and the staff member has provided the College medical certification of said serious health condition. Health insurance coverage will not be maintained by the college beyond the period of the expiration of the initial leave.

6. Miscellaneous

- a. Spouses employed by the College shall be limited to the aggregate number of twelve work weeks of leave to which both are entitled during any twelve-month period if such leave is taken for any other reason than the staff member is unable to perform the functions of his/her position because of a serious health condition or to care for his/her sick parent.
- b. Leave shall not be taken intermittently without the consent of the President. The President in granting a request for intermittent leave may require the staff member to transfer to an alternative position, without loss of pay or benefits, that better accommodates intermittent periods of leave than the staff members' regular position.
- c. Any eligible staff member who takes leave will be entitled on return from such leave to be restored to the position he/she held when the leave commenced or to be restored to an equivalent position with equivalent pay and benefits.

7. Modifications

The Family Leave provided for herein shall be modified in accordance with any subsequent legislative action taken to repeal, modify, revise, or amend the Family and Medical Leave Act of 1993.