

Family and Medical Leave Act (FMLA)

Employees who have been employed for at least twelve (12) consecutive months immediately preceding the request for FMLA leave and worked the equivalent of at least 1,250 hours during the preceding twelve (12) months, may take up to:

A: Twelve (12) weeks of unpaid leave in each twelve (12) month period for any of the following reasons:

- Birth or adoption of a child;
- Placement of a child for foster care;
- Own serious health condition;
- Care for a family member (spouse, parent, or child) with a serious health condition
- Because of any qualifying exigency arising out of the fact that the employee's spouse, child, parent or parent-in-law is on covered active duty in the Armed Forces, including the National Guard and Reserves, or has been notified of an impending call or order to covered active duty in the Armed Forces, including the National Guard and the Reserves. Please see HR for the specific activities and events which constitute a "qualifying exigency" and "covered active duty."

B: Twenty-six (26) weeks of unpaid leave in each twelve (12) month period to care for a covered service member, including covered veterans, with a serious injury or illness if the employee is the spouse, child, parent, parent-in-law or next of kin of the service member. "Next of kin" means the nearest blood relative other than the spouse, parent, or child, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.

An employee returning from fulfilling their military obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether the employee worked the required equivalent of 1,250 hours of service.

When eligible spouses are employed by MCAD, they are entitled to a combined total of 12 weeks of FMLA leave in a 12-month period upon the birth of a child, placement for adoption, or foster care. Eligible spouses are also limited to a combined total of 26 weeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury or illness if each employee is a parent, spouse, child, or next of kin of the service member.

For purposes of calculation, the twelve (12) month period is a "rolling" twelve (12) month period measured backward from the first day of the FMLA leave. In some circumstances, as required by state law, additional twelve (12) week parenting and pregnancy leave can be taken within the one (1) year period upon the birth or adoption of a child.

If intermittent leave is requested in connection with a serious health condition of the employee or an employee's family member, the certification from a health care provider is required to document the need for intermittent leave.

Leave in conjunction with the birth, adoption, or foster-care placement of a child must be taken within one (1) year of the birth, adoption, or foster-care placement.

NOTICE TO MCAD

If an employee knows in advance that they will need FMLA leave, thirty (30) days' written notice is required whenever possible. Supervisors are to forward this written request to HR. Otherwise, an employee must provide written notice as soon as practical. Although verbal notice is sufficient in cases of medical emergency, the employee must submit written notice to HR setting forth the reasons for the requested leave and anticipated duration of the leave.

CERTIFICATION

Employees are required to submit medical certification from a health-care provider on a form furnished by HR in the event an absence of more than five (5) days occurs for either of the following:

- Care for a covered family member with a serious health condition
- An employee's serious health condition which makes them unable to perform their job

In the event an employee's leave is for a qualifying exigency in connection with a covered military member, they must submit a certification that provides the information requested in the form furnished by HR. This form must be accompanied by documents which support the request for the leave, such as a copy of the covered military member's active-duty orders or other documentation issued by the military, which indicates that the covered military member is on active duty or call to active-duty status in support of a contingency operation, and the dates of the covered military member's active-duty service. This information need only be provided to MCAD once. A copy of new active-duty orders or other documentation issued by the military may be required if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member. A qualifying exigency could include:

- Short-notice deployment; seven (7) or less calendar days prior to the date of deployment
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities
- Arranging for alternative care
- Attending meetings with staff at a care facility

If the leave is taken to care for a covered service member with a serious injury or illness, MCAD requires the employee to obtain certification completed by an authorized health care provider of the covered service member. The certification must be on a form furnished by HR.

MCAD can contact the employee's health-care provider for purposes of clarification and authentication after MCAD has given the employee an opportunity to cure any deficiencies in the certification. An HR official, not the employee's supervisor, will contact the health-care provider. If an employee chooses not to provide MCAD with authorization allowing MCAD to clarify the certification with the health-care provider, and does not otherwise clarify the certification, MCAD can deny the taking of the FMLA leave. It is the employee's responsibility to

provide MCAD with a complete and sufficient certification and to clarify the certification if necessary.

When leave is foreseeable and thirty (30) days' notice has been provided, employees must provide certification before leave begins. Otherwise, the certification must be submitted within fifteen (15) calendar days after receipt of written notice of certification is required. Forms for this certification are available through HR. Completed forms should be sent to HR. Leave may be denied in the event of a failure or refusal to satisfactorily complete this form. When the leave involves an employee's serious health condition, a second or third opinion from a designated physician may be required at the College's expense. Recertification of the employee's condition may be required every thirty (30) days or after the minimum duration of the condition stated in the certification. Recertification may also be requested if the circumstances in the previous certification have changed significantly, MCAD receives information that casts doubt upon the employee's stated reason for the leave, or the employee requests an extension of leave. If leave was taken as a result of an employee's personal serious health condition, they must also provide certification from the health-care provider stating that they are fit to resume their job. Any restrictions they may have must be included in the certification.

SALARY AND BENEFITS

Employees may be eligible for sick pay and short-term disability for their own illness if not covered by Workers Compensation; sick pay may be taken for the serious illness of a child, spouse, parent, or parent-in-law. In such cases, FMLA and sick/disability leave run concurrently. Earned vacation time may also be taken during the leave. Receipt of disability benefits will be contingent upon completion of a FMLA Health Care Provider Disability Benefits Form. Medical, dental, life, short-term, and long-term disability insurance will be continued during the leave, up to twelve (12) weeks, with the employee paying their portion of any required premiums. If an employee receives a wage during the leave, the premiums will be deducted from their paycheck during the regular payroll cycle. If an employee knows about their leave in advance, premiums can also be deducted in advance, in some circumstances. If an employee is not receiving a check, their premium portion is due the first of each month. If a check is not received by the 30th of the month, coverage may lapse. In that event, when the employee returns from leave, coverage will be restored.

Medical reimbursement accounts may be maintained by payroll deduction if an employee is receiving a check or prepaid if the employee is not receiving a check. An employee's monthly payment is due the 1st of each month. If an employee decides not to continue their medical reimbursement account, they cannot be reimbursed for claims incurred during the period when coverage is terminated. If an employee elects to reinstate their medical reimbursement account upon return from FMLA, their coverage will be prorated to reflect the FMLA period during which no payments were made and reduced by prior reimbursements.

An employee may wish to suspend any dependent care reimbursement account contributions during the period of their Family and Medical Leave. Dependent care expenses incurred during the leave cannot be reimbursed because such expenses were not incurred to enable the employee to work, as required by the IRS.

REINSTATEMENT

At the end of the FMLA leave, the employee will be restored to their prior position or to a position with equivalent benefits, pay, and other conditions of employment, provided they have submitted a fitness-for-duty certification unless they would otherwise have been subject to layoff during the leave. The employee will retain all accrued, unused, pre-leave benefits.