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| **5.44 Family and Medical Leave Act *(Adopted 11-4-2013)*** The College complies with the provisions of the Family and Medical Leave Act (FMLA). The College reserves all rights available to employers under the Family and  Medical Leave Act.  |

### Definitions

**Son or Daughter** – For purposes of FMLA leave taken for birth or adoption, or to care for a family member with a serious health condition: a biological, adopted, foster child, stepchild, legal ward or a child for a person standing in loco parentis who is (a) under 18 years of age; or (b) 18 years of age or older and incapable of self-care because of a mental or physical disability.

For purposes of FMLA leave taken related to Armed Forces active duty or call to duty, or covered servicemember care: a biological, adopted, foster child, stepchild, legal ward or a child for a person standing in loco parentis who is of any age.

 **Parent** – A parent is defined as the employee’s biological, adoptive, step or foster parent, or the individual who stood in loco parentis to an employee when the employee was a child.

**Serious Health Condition** – Generally, a serious health condition is defined as a physical or mental illness, injury, impairment, or condition involving 1) inpatient care in a hospital, nursing home, or hospice; or 2) continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes three or more consecutive calendar days of incapacity relating to the same condition that also involves treatment two or more times directed by a health care provider or treatment one or more times with a resulting regimen of continuing treatment. Included also in the definition is any condition or medical situation not specifically listed here but contained within the FMLA regulations.

**Next of Kin** - The nearest blood relative of the covered servicemember.

**Procedures:**

#### 5.44.1 Eligibility

Employees are eligible for Family Medical Leave if they have worked at least 1,250 hours during the prior 12 months and have been employed with the College at least one year. Employees are entitled to take up to 12 weeks of leave withoutpay and/or utilize accrued leave during a 12-month period due to one or more of the following:

1. For incapacity due to pregnancy, prenatal medical care or child birth;
2. To care for the employee’s child after birth, or placement for adoption or foster care;
3. To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition;
4. For a serious health condition that makes the employee unable to perform the employee’s job;
5. A qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces.

In addition, employees who are the spouses, sons or daughters, parents or next of kin of a covered servicemember are entitled to take up to 26 weeks of unpaid leave during a single 12-month period to care for the servicemember who incurs an injury during military service when that injury results in the servicemember being unable to perform his or her duties.

The employee is required to first use accumulated sick, personal, and/or vacation days; the balance of the leave will be unpaid up to the 12-week maximum. If the employee is using Family Medical Leave for his/her own medical needs, the College will continue to provide paid insurance benefits during the leave. As described in this Policy, medical certification from an applicable health care provider will be required. The duration of each leave of absence and the compensation received by the employee, if any, during the leave of absence shall be determined by the College in conjunction with applicable federal and state law.

####  5.44.2 Counting of Leave Taken Under FMLA

The College will determine the amount of leave available under this Policy for an eligible employee by using a “rolling” 12 month period. A “rolling” 12 month period measures backward from the date an employee’s leave commences to the 12 months preceding this date.

####  5.44.3 Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer’s operations. Employees must report that the leave is FMLA related when informing the supervisor. Leave due to qualifying exigencies may also be taken on an intermittent basis.

####  5.44.4 Notice Requirements of Employees

 Employees must provide 30 days advance notice of the need to take

 FMLA leave when the need is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable and must comply with an employer’s normal call-in procedures. The employee’s supervisor must consult Human Resources as soon as there is knowledge an employee needs to be off work.

####  5.44.5 Medical Certification

Medical certification by an applicable health care provider is required for

 all leaves with the exception of leave for childbirth.

The employee must provide certification as soon as reasonably possible and no later than 15 days after the College notifies the employee that the leave may qualify as FMLA. If the employee fails to provide such timely certification, the leave request may be denied until a reasonable period after the required certification is provided, or the leave request may be denied entirely. Human Resources will inform the employee if the request is approved/denied.

####  5.44.6 Active Duty/Call to Duty Certification

For leave of absence due to Armed Forces active duty or call to duty, the employee must provide the available Armed Forces documentation as soon as possible.

####  5.44.7 Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees’ rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee’s leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

####  5.44.8 Substitution of Paid Leave for Unpaid Leave

The employee is required to first use accumulated sick, personal, and/or vacation days; the balance of the leave will be unpaid up to the 12 week maximum.

####  5.44.9 Continuation of Benefits while on Family or Medical Leave

For any employee granted leave under this Policy:

(a) The College will continue to pay the employer portion of the group medical, dental, vision and life insurance premiums.

1. The employee must continue to pay the employee’s portion of insurance premiums.
2. If the employee does not return to work when FMLA leave is exhausted, the opportunity to purchase continuing coverage under COBRA regulation will apply.

#### 5.44.10 Impact on Future Retirement Benefits

For information on potential impact of Family and Medical Leave on retirement benefits, the employee should refer to the PSRS-PEERS website at [http://www.psrs-peers.org.](http://www.psrs-peers.org/) Subject to PSRS-PEERS requirements, employees on unpaid leave may be able to contribute based on current salary into the applicable retirement system in order to earn service credit.

#### 5.44.11 Fitness-for-Duty Requirements

Employees who take leave under this Policy due to their own serious health condition must provide to the Human Resources office, in advance of returning to work, a “return to work” slip from their health care provider stating that they are able to resume the essential functions of their jobs with or without a reasonable accommodation. Employees may not return to work without the required documentation from their health care providers.

#### 5.44.12 Return from Family and Medical Leave

 Employees are expected to return to work the first workday following the last day of the family or medical leave. In cases where the employee is unable to return sooner or the employee needs an extension of leave time, employees are asked to provide two days’ notice of such whenever possible. Upon return from a family or medical leave, an employee will be restored to the same or an equivalent position. An employee’s failure to return from leave on the designated date will be handled in accordance with College Policy.

#### 5.44.13 Option for Employees Ineligible for FMLA Leave

 Employees who do not qualify for leave under FMLA or who have exhausted

family and medical leave may consult Human Resources to determine their eligibility to apply for an unpaid leave.