

## MEDICAL LEAVES of ABSENCE POLICY

### **FAMILY AND MEDICAL LEAVE ACT (FMLA)**

#### **Eligibility**

To be eligible for FMLA benefits, an employee must have been employed by the College for at least twelve (12) months and have worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave. Periods of approved military leave will be counted when calculating these hours of service requirements for FMLA leave.

Eligible employees may be entitled to up to twelve (12) weeks of unpaid leave during any 12-month period (which is measured backward from the date an employee begins to use any FMLA leave). Each time an employee takes FMLA leave, the remaining leave entitlement equals the balance of the 12 weeks that has not been used during the immediately preceding 12 months.

The FMLA entitles eligible employees to take job-protected, unpaid leave for specified family and medical events. Eligible employees are entitled to:

- Twelve workweeks of unpaid leave in any 12-month period (rolling year) for:
  - Birth and care of the employee's child, within one year of birth
  - Placement with the employee of a child for adoption or foster care, within one year of the placement
  - Care of an immediate family member (spouse, child, parent) who has a serious health condition
  - For the employee's own serious health condition that makes the employee unable to perform the essential functions of his or her job
  - Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in the U.S. National Guard or Reserves in support of a contingency operation
  
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member (Military Caregiver Leave)

#### **Provisions**

During any FMLA leave, the College will maintain the employee's medical, dental, vision, life insurance and disability benefits. In some instances, the College may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

An employee returning from FMLA leave will be restored to the same or an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

FMLA leave does not supersede any collective bargaining agreement that provides greater family or medical leave rights than the rights established under FMLA.

## **Substitution of Paid Leave**

During an FMLA leave, for an employee's own serious health condition, College employees are required to use all of their accrued sick, vacation, personal, and compensatory time. For AME employees, sick and vacation time will continue to accrue only during that portion of the leave which is paid by using sick, vacation, personal or compensatory time. During any unpaid FMLA leave, sick, vacation, and personal leave will not accrue. For those persons returning from any unpaid FMLA leave, accrual of sick, vacation, and personal leave will resume. When the FMLA leave is taken on an intermittent basis or as a reduced-schedule, sick leave and paid time off will continue to accrue during the leave on a pro rata basis.

During an FMLA leave for any family member other than the employee, the employee is required to use all of his/her accrued vacation, personal, and compensatory time. The remainder of the leave period will then consist of unpaid leave.

## **Designation and approval of FMLA**

Human Resources will designate any absence that meets the eligibility requirements of the FMLA as FMLA leave. The designation of FMLA will occur either as a result of an employee's request for FMLA leave or when Human Resources becomes aware that the employee's absence qualifies as FMLA leave. However, when an employee seeks leave due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee is required to specifically reference either the qualifying reason for leave or the need for FMLA leave.

## **Requirements for Requesting Family and Medical Leave**

Employee notification

- When a qualifying event is known or anticipated, verbal notice should be given as far in advance as possible, followed by written documentation (*Certification of Health Care Provider*) submitted 30 days prior to the leave. Failure to follow timely notification procedures may result in the delay of FMLA leave.
  - *Certification of Health Care Provider available on Human Resource by calling 451-4207 or at <http://www3.sunysuffolk.edu/Administration/HumanResources/forms.asp>*
- When an incident is immediate or unforeseen, notice should be given as soon as practical when the employee becomes aware of the need for leave.
- For any requested leave for treatment, reasonable efforts should be made by the employee to schedule appointments that avoid disrupting unit operations.

## **Documentation of a qualifying event**

A request for FMLA leave must be substantiated with satisfactory documentation provided within 15 calendar days of the request for leave. If the leave is due to a serious health condition of the employee, employee's immediate family member, or covered service member, documentation must be submitted from an appropriate health care provider. Documentation will be either the Medical Certification of Health Care Provider for Employee's Serious Health Condition form or the Medical Certification of Health Care Provider for Family Member's Serious Health Condition. If the leave is due to adoption, foster care placement, active duty leave, or covered active duty leave, documentation must be submitted from the appropriate agency.

## **Options for Taking Family Medical Leave**

Twelve weeks of FMLA leave may be taken all at once, intermittently, or on a reduced-leave schedule. After the first 12 weeks of the qualifying event for birth, adoption, or foster care placement, leave cannot be taken on an intermittent or reduced schedule without advance notice, scheduling, and department approval. Intermittent leave may be taken hourly, daily, or at weekly intervals. An employee's department must approve intermittent leave or a reduced leave schedule and arrangements for such leave must be coordinated with Human Resources. Only the amount of leave actually taken is counted toward the 12 or 26\* weeks of leave.

FMLA leave will run concurrently with any other leave granted for an FMLA-qualifying event as outlined below, regardless of pay status.

## **EXTENDED ILLNESS**

If a full-time employee has exhausted all earned sick leave, Extended Sick Leave for an illness which lasts longer than 20 work days shall be granted at the rate of one pay period at half pay for each year of continuous service completed. An employee, at his/her option, may use the accumulated vacation, personal leave or compensatory time before going on extended sick leave.

## **LONG TERM DISABILITY**

### **Eligibility**

A full-time employee is eligible to receive this disability income benefit for a non-job-related illness which lasts in excess of 90 consecutive calendar days. (At no time is an employee permitted to receive both workers' compensation and disability income for the same medical condition.) The benefits provide for a weekly payment of two-thirds of the employee's income up to \$300 per week to AME and up to \$450 per week for Faculty, Guild and Exempt employees. These payments will be made on a biweekly basis. An employee is eligible for this benefit payment for a maximum of 104 weeks.

### **Provisions**

This benefit payment is made to an eligible employee regardless of the employee's payroll status (i.e.: receiving accruals, on FML, on one-half sick pay, on an unpaid leave of absence, or at the exhaustion of the unpaid leave of absence). No accruals may be used to enable an employee to receive more than his/her full salary. Disability income is a taxable benefit. FICA must also be deducted from disability income for six calendar months after the calendar month that the employee last worked. Each employee receiving disability income should discuss disability tax income provisions with his/her tax consultant at the year's end. A separate W-2, indicating the disability income received, will be issued at the end of the calendar year.

*\*To care for a covered service member with a serious injury or illness only*

## **To Apply for Disability Income**

Application forms can be obtained from the College's Human Resource Department or by calling 451-4207. An employee with a medical condition expecting to last in excess of 90 consecutive calendar days should submit the Suffolk County Disability Claim Forms and W-4S Tax Form to Human Resources 30 days after the disability has begun. The physician's statement on the application must be completed before the form is submitted to the Suffolk County Office of Insurance and Risk Management for processing. By his/her signature on the application, the disabled employee is authorizing release of all medical records and documentation relating to his/her disability claim. Medical bills are not covered by disability and must be forwarded to the employee's health benefit carrier. An employee may be scheduled for a consulting physician's examination to certify and/or recertify the disability. The employee will be notified as to the approval or disapproval of his/her claim.

## **To Appeal a Disapproved Claim**

Should the County deny an employee's claim for disability income, the employee will have the right to appeal to the Office of Insurance and Risk Management in writing within 30 days of his/her notification. Such appeal should include any additional evidence which may substantiate the employee's claim. Copies of this appeal should be sent to the College's Human Resource Office, the County Office of Personnel and Labor Relations, and the employee's union if applicable.

When such disagreement occurs the matter will be referred to a third-party physician and his/her decision will be binding.

## **Recurrence of Disability**

Once the employee has returned to work, his/her disability income ceases. Should the employee suffer a recurrence of the original disability, based on a new incident, a 90 calendar-day waiting period must again elapse before he/she is again eligible to receive disability income. Should the employee be unable to perform his/her duties due to the existence of the same condition without further incident, the claimant may then continue to receive disability benefits, without any further waiting period, until the original one year period of payment has elapsed.

Should the claimant suffer a new disability unrelated to the original disability, the normal 90 day calendar period and all procedures as previously stated will apply.

## **Contact Information**

General questions which you may have regarding all benefits should be referred to the College's Office of Human Resources. Specific questions regarding your individual circumstances for Health Insurance Benefits should be referred to the Employee Benefits unit of the Department of Civil Service/Human Resources at 853-4866, or e-mail to [ebu@co.suffolk.ny.us](mailto:ebu@co.suffolk.ny.us). Specific questions regarding the Long Term Disability Insurance can be referred to the County Office of Insurance and Risk Management at 853-4700.

**Approved by Executive Council  
December 14, 2010**