

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 1 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

PURPOSE

The Federal Family & Medical Leave Act of 1993 as amended in 2008 (FMLA) requires employers with 50 or more employees to provide eligible employees with unpaid leave. There are two types of leave available, including the basic 12-week leave entitlement (Basic FMLA Leave), as well as the military family leave entitlements (Military Family Leave).

PROCEDURE

1. ELIGIBILITY FOR FMLA LEAVE

Employees are eligible for FMLA leave if they:

- 1.1 Have worked for the College for at least 12 months in the last seven years;
- 1.2 Have worked at least 1,250 hours for the College during the 12 calendar months immediately preceding the request for leave; and

Employees with any questions about their eligibility for FMLA leave should contact the Human Resources Department for more information.

2. BASIC FMLA LEAVE

Employees who meet the eligibility requirements described above are eligible to take up to 12 weeks of unpaid leave during any 12-month period for one of the following reasons:

- 2.1 To care for the employee's son or daughter during the first 12 months following birth;
- 2.2 To care for a child during the first 12 months following placement with the employee for adoption or foster care;
- 2.3 To care for a spouse, son, daughter, or parent ("covered relation") with a serious health condition;
- 2.4 For incapacity due to the employee's pregnancy, prenatal medical or child birth; or
- 2.5 Because the employee's own serious health condition that renders the employee unable to perform an essential function of his or her position.

Married couples: In cases where a married couple is employed by the College, the two spouses together may take a *combined total* of 12 weeks' leave during any 12-month period for reasons 2.1 and 2.2, or to care for the same individual pursuant to reason 2.3.

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 2 of 7		
	Last Revision Date:	10-26-09	
	Effective Date:	10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

3. MILITARY FAMILY LEAVE

There are two types of Military Family Leave available:

- 3.1 **Qualifying exigency leave.** Employees meeting the eligibility requirements described above may be entitled to use up to 12 weeks of their Basic FMLA Leave entitlement to address certain qualifying exigencies. Leave may be used if the employee's spouse, son, or daughter, is on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation. Qualifying exigencies may include:
 - 3.1.1 Short-notice deployment (up to seven days of leave)
 - 3.1.2 Attending certain military events
 - 3.1.3 Arranging for alternative childcare
 - 3.1.4 Addressing certain financial and legal arrangements
 - 3.1.5 Periods of rest and recuperation for the service member (up to five days of leave)
 - 3.1.6 Attending certain counseling sessions
 - 3.1.7 Attending post-deployment activities (available for up to 90 days after the termination of the covered service member's active duty status)
 - 3.1.8 Other activities arising out of the service member's active duty or call to active duty and agreed upon by the College and the employee
- 3.2 **Leave to care for a covered service member.** There is also a special leave entitlement that permits employees who meet the eligibility requirements for FMLA leave to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has been rendered medically unfit to perform his or her duties due to a serious injury or illness incurred in the line of duty while on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.
- 3.3 When both husband and wife work for the College, the aggregate amount of leave that can be taken by the husband and wife to care for a covered service member is 26 weeks in a single 12-month period.

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 3 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

4. AMOUNT AND USE OF LEAVE

- 4.1 An eligible employee can take up to 12 weeks leave under Section 2, Basic FMLA Leave, during any 12-month period. The College will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the College will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
- 4.2 An eligible employee can take up to 26 weeks leave under Sub-Section 3.2, Military Family Leave, during a single 12-month period. For this military caregiver leave, the College will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.
- 4.3 An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the College's operations.
- 4.4 Military Family Leave due to qualifying exigencies may also be taken on an intermittent basis. Leave may not be taken on an intermittent basis when used to care for the employee's own child during the first year following birth, or to care for a child placed with the employee for foster care or adoption, unless both the College and employee agree to such intermittent leave.

5. PAY, BENEFITS, AND PROTECTIONS DURING FMLA LEAVE

- 5.1 **Leave is unpaid.** Family medical leave is unpaid leave (although employees may be eligible for short- or long-term disability payments and/or workers' compensation benefits under those insurance plans) if leave is taken because of an employee's own serious health condition.
- 5.2 **Substitution of paid time off for unpaid leave.** If an employee requests leave because of the employee's own serious health condition; to care for a covered relation with a serious health condition; the birth, adoption, or foster care placement of a child; or for leave taken for a qualifying exigency, any accrued paid vacation, personal, and/or sick

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 4 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

leave first will be substituted for unpaid family/medical leave. The same rules apply for leave to care for a seriously injured or ill family member in the military.

The substitution of paid leave time for unpaid leave time does *not* extend the leave entitlement period. An employee's family medical leave runs concurrently with other types of paid leave, i.e., paid vacation or sick leave.

The College will not provide paid sick leave or paid medical leave in any situation in which the College would not normally provide any such paid leave.

- 5.3 **Medical and other benefits.** During FMLA leave, the College must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

During an approved family medical leave, the College will maintain the employee's health benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid family medical leave, the College will deduct the employee's portion of the health plan premium for dependent coverage as a regular payroll deduction. If leave is unpaid, the employee must pay his or her portion of the dependent premium by making arrangements with the Human Resources or Payroll Department.

An employee's healthcare coverage for dependents will cease if the premium payment is more than 30 days late. If the payment is more than 15 days late, the College will send the employee a letter to this effect. If the College does not receive the co-payment within 15 days after the date of that letter, the employee's dependent coverage may cease.

If the employee elects not to return to work for at least 30 calendar days at the end of the leave period, the employee will be required to reimburse the College for the cost of the premiums paid by the College for maintaining coverage during the unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

- 5.4 Vacation and sick leave does not accrue during an unpaid leave.
- 5.5 **Return to job at end of FMLA leave.** Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 5 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

6. EMPLOYEE RESPONSIBILITIES WHEN REQUESTING FMLA LEAVE

If the need to use FMLA leave is foreseeable, the employee must give the College at least 30 days prior notice of the need to take leave. When 30 days notice is not possible, the employee must give notice as soon as practicable (within one or two business days of learning of the need for leave except in extraordinary circumstances). Failure to provide such notice may be grounds for delaying the start of the FMLA leave.

Whenever possible, requests for FMLA leave should be submitted to the Human Resources Department.

When submitting a request for leave, the employee must provide sufficient information for the College to determine if the leave might qualify as FMLA Leave, and also provide information on the anticipated date when the leave would start as well as the duration of the leave. Sufficient information may include that the employee is unable to perform job functions; that a family member is unable to perform daily activities; that the employee or family member needs hospitalization or continuing treatment by a healthcare provider; or the circumstances supporting the need for military family leave. Employees also must inform the College if the requested leave is for a reason for which FMLA Leave was previously taken or certified. Employees also will be required to provide a certification and periodic recertification supporting the need for leave.

7. EMPLOYER RESPONSIBILITIES

When an employee requests leave, the College will inform the employee whether he or she is eligible under the FMLA. If the employee is, the employee will be given a written notice that includes details on any additional information he or she will be required to provide. If the employee is not eligible under the FMLA, the College will provide the employee with a written notice indicating the reason for ineligibility.

If leave will be designated as FMLA-protected, the College will inform the employee in writing and provide information on the amount of leave that will be counted against the 12 or 26 week entitlement.

8. MEDICAL CERTIFICATION

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 6 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

If the employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant healthcare provider must supply appropriate medical certification.

Employees may obtain Medical Certification forms from the Human Resources Department. When the employee requests leave, the College will notify the employee of the requirement for medical certification and when it is due (no more than 15 days after leave is requested). If the employee provides at least 30 days notice of medical leave, he or she should also provide the medical certification before leave begins.

Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided. The College, at its expense, may require an examination by a second healthcare provider designated by the College, if it reasonably doubts the medical certification initially provided. If the second healthcare provider's opinion conflicts with the original medical certification, the College, at its expense, may require a third, mutually agreeable, healthcare provider to conduct an examination and provide a final and binding opinion.

The College may require subsequent medical recertification. Failure to provide requested certification within 15 days, except in extraordinary circumstances, may result in the delay of further leave until it is provided.

9. REPORTING WHILE ON LEAVE

If an employee takes leave because of the employee's own serious health condition or to care for a covered relation, the employee must contact the College on the first and third Tuesday of each month regarding the status of the condition and his or her intention to return to work. In addition, the employee must give notice as soon as practicable (within 2 business days, if feasible) if the dates of the leave change, are extended, or were unknown initially.

10. INTERMITTENT AND REDUCED-SCHEDULE LEAVE

Leave because of a serious health condition, or either type of family military leave may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-schedule leave (reducing the usual number of hours worked per workweek or workday) if medically necessary. If leave is unpaid, the College will reduce the employee's salary based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced-schedule leave, the College may temporarily transfer the employee to an available

PROCEDURE MANUAL

 ARIZONA WESTERN COLLEGE	PROCEDURE 435.9		
	Page 7 of 7		
	Last Revision Date:	10-26-09	
Effective Date:		10-26-09	
Section:	Personnel	Subject:	Family & Medical Leave

alternative position that better accommodates the recurring leave and which has equivalent pay and benefits.

11. RETURN FROM FAMILY AND MEDICAL LEAVE

When an employee returns from leave, the employee is entitled to be returned to the same position or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

When the leave is granted for the employee's illness, the employee is required to submit a statement from the medical care provider certifying that the employee is able to return to work.

Reference: The Federal Family & Medical Leave Act of 1993 as amended in 2008