

**COLLEGE OF CHARLESTON
POLICY AND PROCEDURES
FAMILY AND MEDICAL LEAVE
(Revised and Effective 7/1/04)**

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

1) Purpose

Effective April 6, 1995, the College/University of Charleston has established the Family and Medical Leave Policy and Procedures.

The Family and Medical Leave Act of 1993 requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons. While family medical leave is defined as unpaid leave, an employee who is eligible may utilize accumulated sick and/or annual leave under the agency’s existing sick and annual leave policies. Whether family medical leave is paid or unpaid, it is limited to 12 weeks in any calendar year. The employee will be required to provide advance leave notice and medical certification.

2) Eligibility

Employees are eligible for family medical leave if they:

- a. Have worked for the College for at least 12 months; and
- b. Have worked at least 1250 hours in the 12-month period immediately preceding the start of the leave.

3) Reasons for Leave

The Act entitles employees to utilize family medical leave for the following reasons:

- a. To care for the employee’s child after birth, or placement for adoption or foster care;
- b. To care for the employee’s spouse, child, or parent who has a serious health condition; or
- c. For a serious health condition that makes the employee unable to perform the employee’s job.

Family members are defined as:

- a. “Child” means biological, adopted, or foster child, a stepchild, legal ward or a child being raised by the employee. The child must be either under 18 years of age or older than 18 and incapable of self-care because of a mental or physical disability.
- b. “Spouse” means husband or wife.
- c. “Parent” means biological parent or a non-biological parent who had primary responsibility for raising the employee. The term does not include parents “in-law”.

Serious Health Condition—a “serious health condition” means any illness, injury, impairment, or physical or mental condition that involves:

- a. Inpatient care in a hospital, hospice, or residential health care facility; or
- b. Continuing treatment for a serious health condition by a health care provider;
- c. Any period of incapacity due to pregnancy, or for prenatal care.

4) Conditions and Restrictions

Conditions or restrictions applicable to the Act are as follows:

- a. Family medical leave will be granted up to a maximum of 12 weeks in any calendar year.
- b. The entitlement to commence family medical leave for the birth or placement of a child for adoption or foster care shall expire at the end of the twelve months period beginning on the date of such birth or placement.
- c. Family medical leave may not be taken intermittently for the birth or placement of a child unless the employee and the employee’s immediate supervisor agree otherwise. However, in the case of family or personal illness, leave may be taken intermittently.
- d. Where both husband and wife are employed by the State of South Carolina and are entitled to family medical leave under the provisions of the Act, the aggregate work weeks of leave to which both may be entitled will be limited to twelve work weeks during a calendar year for either the birth or placement of a child. If the leave is requested because of the illness of a child or of the other spouse, each spouse is entitled to twelve weeks of leave.

5) Leave Request

Requests for family medical leave are to be submitted in writing to the employee’s immediate supervisor, with supporting certification as to health conditions from medical providers. (Forms are available in the *Office of Human Resources*.)

Approved requests for family medical leave, with supporting certification attached, will be submitted on leave request forms to the *Office of Human Resources*.

If a request for family medical leave is denied for any reason, notice of the denial should be provided to the requesting employee by the supervisor. This denial of the request will be made in a timely manner. The notification will be provided in writing and will include the reason for denial. Employees who are denied a request for family medical leave may appeal this denial.

Sick Leave—employees must use their sick leave for family medical leave when the employee is out for a serious health condition that renders them unable to perform their job. The use of sick leave for family medical leave will not extend the 12-week maximum for family medical leave.

Sick Family Medical Leave—in any calendar year, employees who earn sick leave may use up to 80 hours of their available sick leave for family medical leave and to care for ill members of their immediate family, and all of their available sick leave for an illness for themselves.

Annual Leave—employees who earn annual leave may use their annual leave hours when the purpose of the leave is to care for a spouse, child or parent with a serious health condition. The use of annual leave for family medical leave will not extend the 12-week maximum for family medical leave.

Paid leave runs concurrently with family medical leave.

Unpaid Leave—employees will be placed on leave without pay after using all other leave.

6) Certification

Employees will be required to provide medical certification. The College will provide employees with the necessary medical forms. This certification will include the date on which the condition commenced, the probable duration of the condition and appropriate medical facts within the health care provider's knowledge regarding the condition. The certification must also include an estimate of the amount of time that the eligible employee is needed if the family medical leave is requested to care for the dependent.

It will be the employee's responsibility to have the form completed and returned to the employer within 15 days of receipt of the form.

An employee's failure to present a required certification may result in denial of request for family medical leave.

The employer may require that a second medical opinion be obtained at the expense of the employee.

The employer may require recertification from the employee.

The employer may also require an employee to present satisfactory proof of an adoption or placement of foster care.

In the case where the employee is on family medical leave for himself/herself, the employee will be required to present a physician's release to return to work certification.

7) Continuation of Benefits

Insurance Premiums—During the 12-week family medical leave period available, the College will continue to pay the employer's portion of health and dental insurance premiums. The employee must continue to pay the normal employee contribution for the duration of the leave. If the employee is out longer than the 12-week period, the employee will be responsible for paying both the College/University portion in addition to their premiums if he/she wishes to keep the insurance in force.

Unpaid Leave—The time spent by employees on family medical leave will not count as time worked for the purpose of accruing annual and/or sick leave.

8) Reinstatement

Upon returning from family medical leave; an employee will be reinstated to the same position held or to a position with equivalent pay, benefits and working conditions when the leave began.