

Policy Type: General Administration
Policy Title: Family and Medical Leave Act (FMLA)
Policy Number: HR13 (Revision)

Purpose:

To comply with all provisions set forth in the 1993 Family and Medical Leave Act (FMLA) as amended by Section 585 of the National Defense Authorization Act for FY 2008, Public Law 110-181.

Scope:

All eligible Green River Community College employees.

Definitions:

1. *Active Duty* - The term “active duty” means duty under a call or order to active duty under a provision of law referred to in section 101(a) (13) (B) of title 10, US Code.
2. *Child* - Biological, adopted, or foster child; a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.
3. *Contingency Operation* - has the same meaning given such term in section 101(a) (13) of title 10, United States Code.
4. *Covered Service member* - means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.
5. *Eligible Employee* - An employee who has worked for the state for at least twelve months (52 weeks) and has worked at least 1,250 hours in the 12-month period immediately preceding the leave. Time spent during any type of absence, whether paid or unpaid (including a suspension or administrative leave) does not count toward the 1,250 hours worked requirement.
6. *Family Member* – The FMLA has its own definition of family member which is the employee’s spouse, child or the employee’s own parent. Green River’s Policy also includes same-sex domestic partner as defined by WAC 182-12-260 (2) or qualified by the registration card issued by the Washington Secretary of State for a same-sex partnership.
7. *Intermittent Leave* - Leave that is not taken consecutively or leave taken on a reduced schedule. Examples of intermittent leave might be leave taken spread over a period of months, such as for chemotherapy, or for planned doctor appointments over time.
8. *Next of Kin* - with respect to a covered service member means the nearest blood relative of that individual.
9. *Outpatient Status* - with respect to a covered service member means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
10. *Qualifying Exigency* - as defined in regulations issued by the Department of Labor.

11. *Serious Health Condition* - A condition which requires inpatient care at a hospital, a residential medical care facility; or a condition which requires continuing care by a licensed health care provider. See the separate definition of serious injury or illness for a covered service member.
12. *Serious Injury or Illness for Covered Service members* -The term “serious injury or illness,” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.
13. *Spouse* - A husband or wife as defined or recognized under state law.
14. *Twelve-month Period* - means Green River will calculate the amount of FMLA leave an eligible employee may request on a rolling twelve month period measured forward from the date an employee’s first FMLA leave begins.
15. *Twenty-six Week Period* - for purposes of FMLA military family leave applicable to qualifying FMLA condition means twenty-six work weeks of leave during a single twelve-month period of care for the service member. Twenty-six work weeks is the maximum amount of FMLA leave in a single twelve month period and cannot be combined with an additional 12 weeks for other FMLA reasons.

Policy:

The College will comply with all provisions set forth in the Family Medical Leave Act of 1993, as amended by Section 585 of the National Defense Authorization Act for FY 2008, Public Law 110-181. The Family and Medical Leave Act requires that covered employers provide up to twelve-weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons, and requires employers provide up to twenty-six weeks of unpaid, job-protected leave for an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty in a single twelve-month period to care for the service member. Nothing in this policy shall be construed to supersede any provision of state law that provides greater family or medical leave rights than those established under federal law.

The specific family and medical reasons for twelve-work weeks in FMLA are:

1. Because of a serious health condition that makes the employee unable to perform the functions of the employee’s job;
2. To care for the employee’s son or daughter after the child’s birth or after the placement of the child with the employee for adoption or foster care;
3. To care for an employee’s spouse, son, daughter, parent, or same-sex domestic partner who suffers from a serious health condition.
4. “Any 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 to active duty status, in support of a contingency operation.

The specific family and medical reasons for twenty-work weeks in FMLA are:

1. Service member family leave – an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of twenty-six work weeks of leave during a single twelve-month period to care for the service member who is recovering from a serious injury or illness sustained while in the line of duty on active duty.

General Leave Provisions:

1. **Certification** - Personal medical leave or serious health condition leave covered by the FMLA, or leave to care for a covered injured or ill service member under this policy requires sufficient certification in a timely manner by the appropriate health care provider (timely manner generally means within a 15-day period after notice that certification is required). Recertification may not be requested more often than every 30 days and only in connection with an absence by the employee unless circumstances described in the previous certification have changed significantly. Any medical/military information an employee may submit to the supervisor should be sent to Human Resources and not retained in the employing department. Leave for 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 to active duty status, in support of a contingency operation must be supported by certification in such time and manner as approved by the Department of Labor.
2. **Employer-designated FMLA Leaves** - If the employee does not request Family and Medical Leave, and the reason for the absence meets the FMLA criteria, the College has the authority to designate FMLA. If the College is aware of the needed leave, but has been unable to confirm that the leave qualifies for FMLA, a preliminary designation will be made and the employee will be notified. If it is later learned that the leave does not qualify, the College will withdraw the designation in a written notice to the employee.
3. **Independent Medical Evaluation** - As allowed by law, the College may require that a second opinion from an independent medical provider selected by Green River be obtained at the College’s expense. If there is a conflict in the two opinions, the College may pay for a third health care provider (agreed upon by both the College and the employee) to render a third and final, binding opinion.
4. **Intermittent Leave/Reduced Schedule Leave** - Personal medical leave or serious health condition leave covered by the FMLA, or leave to care for a covered servicemember who is recovering from a serious illness or injury under this policy may be taken intermittently or on a reduced schedule when certified as medically necessary. Intermittent use of FMLA leave for birth and care of a newborn or placement for adoption or foster care is subject to the approval of the College.
5. **Leaves Running Concurrent with FMLA** - Inasmuch as allowed by law and current labor agreements, all related leaves shall run concurrent with FMLA leave.
6. **Notice of Leave** - Employees must provide at least 30 days’ notice where the need for leave is foreseeable, except that practicable notice will suffice when the leave will begin in less than 30 days (“practicable” generally means at least verbal notice to Human Resources within one or two business days of learning of the need to take leave).

7. **Return to Work** - Employees are required to notify the College of their return-to-work date at least two (2) days prior to returning if the date is earlier than originally planned. Employees returning from leave are required to complete a Medical/Military Leave Termination form and provide a doctor's release (except in certain cases, such as paternity leave).
8. **Spouses Employed by the College** - Spouses employed by the College are jointly entitled to a combined total of 12 workweeks of FMLA leave for the birth and care of a newborn, or for placement of a child for adoption or foster care. Leave for this purpose must be taken within 12 months of the birth, adoption or placement for foster care, regardless of when the leave began. Spouses employed by the College are limited to a total 26 workweeks combined during one 12-month period when the leave is to take care of a servicemember who is recovering from a serious injury or illness sustained while in the line of duty on active duty. Each eligible employee is entitled to their own 12 weeks of leave when their child has a serious health condition or if one spouse or other eligible family member is seriously ill or both has their own serious health condition, or for military "qualifying exigencies" leave.
9. **Supervisor Responsibility** - It is the responsibility of supervisors to notify Human Resources of all medical and military leaves that they become aware of in a timely manner and ensure their employees complete a Medical/Military Leave Request and a Leave Authorization form. Human Resources will make the determination concerning whether or not a leave is covered under the FMLA upon receipt of the appropriate certification.
10. **Temporary Reassignment During Intermittent/Reduced Schedule FMLA Leave** - In cases where intermittent leave or a reduced schedule has been approved, the College reserves the right to temporarily reassign the employee with no loss of pay or benefits to a different job or to a part-time position for the duration of the leave, which better accommodates the employee's need for leave and the College's operational needs.
11. **Use of Paid Leave** – The employee may use appropriate available paid leave or may choose to use leave without pay while on approved FMLA. Sick leave may only be used under those circumstances for which sick leave is otherwise provided.

Benefits and Employment Status:

1. Unless otherwise permitted by the FMLA, employees must be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms.
2. FMLA taken under this policy will not result in loss of any seniority or employment benefits accrued prior to the leave. Service credit accruals and seniority continue to be governed by applicable laws, rules and/or labor agreements. Vacation, sick leave and personal holiday will not accrue during leave without pay.
3. The College will continue an eligible employee's existing employer-paid health insurance benefits, up to 12 weeks during an absence granted under FMLA, and up to 26 weeks for an approved servicemember family leave.
4. If the employee normally pays a premium for health insurance and other benefits, these payments will continue through the normal payroll process as long as the employee is in paid leave status. In a leave without pay situation, it is the employee's responsibility to make arrangements to pay the premiums by submitting a personal check or money order

prior to the normal premium dates. Another method of collecting the premiums, if agreed upon by both the College and the employee, may include prepayment through increased payroll deductions if the need for leave is foreseeable.

5. Employees have a minimum 30-day grace period in which to make premium payments. If payment is not made in a timely manner, health insurance may be cancelled provided the employee is notified in writing at least 15 days before the date that health insurance will lapse. The College may choose to pay the employee's premiums during FMLA, in which case the College is entitled to recover these payments from the employee.
6. The College may recover both any unpaid employee premiums and all employer health premiums if the employee does not return to work or returns to work for less than 30 days, unless the reason for not returning is the continuation of FMLA qualifying condition or other circumstances beyond the employee's control.

Specific Authority: Family and Medical Leave Act; CFR, Title 29 (Labor) Chapter 5, Part 825, Labor National Defense Authorization Act FY 2008, Public Law 110-181; See also RCW 41.06.150, RCW 49.12.270; Faculty Negotiated Agreement; Classified Collective Bargaining Agreement; WAC 182-12-260 (2); WAC 357-31-495 through 357-31-565.

Law Implemented: 1993, amended January 28, 2008 by Section 585 of the National Defense Authorization Act for FY 2008, Public Law 110-181.

History of Policy or Procedure

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