

Board Policies

ADMINISTRATIVE AFFAIRS

129.00 FAMILY AND MEDICAL LEAVE ACT

Cowley College will comply with the Family and Medical Leave Act of 1993 (FMLA), and its amendments.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must contact the Director of Human Resources.

A. General Provisions

Under this policy, Cowley College (the college) will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered servicemember with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid, or a combination (paid and unpaid leave), depending on the circumstances of the leave and the availability of the employee's paid-time-off benefits.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

1. The employee must have worked for the College for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years (unless the break is due to National Guard or Reserve military service obligations).
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. Time spent on paid or unpaid leave will not be counted while determining the 1,250 hours of eligibility.
3. Work at a location where the College has at least 50 employees within a 75 miles of the employee's worksite.

C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances detailed above under this policy during any 12-month period. An eligible employee who is a covered servicemember's spouse, child, parent or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

Cowley 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.

If a married couple (including common law and same sex marriages) work for the college and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, each spouse may only take a combined total of 12 weeks of leave. If the married couple both work for the college and each wishes to take leave to care for a covered injured or ill servicemember, each spouse may only take a combined total of 26 weeks of leave. Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

E. Employee Status and Benefit During Leave

While an employee is on leave, the college will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

F. Employee Status after Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The college may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave must use all paid sick and vacation leave prior to being eligible for unpaid leave. Once all sick and vacation leave is exhausted, the remaining FMLA leave will be unpaid.

H. Usage: Consecutive, Intermittent or a Reduced Work Schedule

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employee may take leave intermittently or on a reduced schedule

The employee may take FMLA leave in:

- 12 consecutive weeks;
- may use the leave intermittently (take a day periodically when needed over the year); or
- under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced-hour schedule.

In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill servicemember over a 12-month period).

The college may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

I. Certification for the Employee or Family Member's Serious Health Condition

The college will require certification for the employee or the family member's serious health condition. The employee must respond to such a request within 30

days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. The college has the right to ask for a second opinion. The college will pay for the employee or employee's family member to get a certification

from a second doctor, which the college will select. The college may request recertification for the serious health condition, as allowed by the FMLA regulations.

J. Certification of Qualifying Exigency and/or Serious Injury or Illness of Covered Servicemember for Military Family Leave

The college will require certification of the qualifying exigency for military family leave or for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 30 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. The college may request recertification for the serious health condition, as allowed by the FMLA regulations.

K. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the Director of Human Resources. Within five business days after the employee has provided this notice, the Director of Human Resources will complete and provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the college with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the company's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

L. Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the Director of Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice.

Adopted October 18, 1993
Revised June 19, 2000
Reviewed July 21, 2003
Revised August 14, 2006
Revised August 11, 2008
Revised February 16, 2009
Revised October 15, 2012
Revised March 14, 2022