

Personnel

Board of Trustees Policy

SUBJECT: Family and Medical Leave	NUMBER: 2.4
	DATE: June 21, 2021 Resolution #21-70
	SUPERSEDES: 12/20/93, Resolution #93-133; revised 5/18/09, Resolution #09-42; revised 3/18/13, Resolution #13-40

This policy directly relates to Family & Medical Leave of the SUNY Schenectady Board of Trustees pursuant to the Family & Medical Act (FMLA), as hereto attached.

**PERSONNEL POLICIES OF THE BOARD OF TRUSTEES
SUNY SCHENECTADY
FAMILY & MEDICAL LEAVE**

1. Pursuant to the Family and Medical Leave Act of 1993, as amended (“FMLA”), eligible employees shall be entitled to a total of twelve (12) work weeks of unpaid, job protected leave during any rolling 12-month period measuring forward from the date of first FMLA usage, for one or more of the following reasons:
 - a. The birth of a child of the employee and in order to care for such child. Such leave entitlement shall expire at the end of the 12-month period beginning on the date of such child's birth.
 - b. The placement of a child with the employee for adoption or foster care. Such leave entitlement shall expire at the end of the 12-month period beginning on the date of such child's placement.
 - c. To care for the spouse, child or parent of the employee, who has a qualifying serious health condition.
 - d. For the employee’s own qualifying serious health condition that make the employee unable to perform the functions of their position.
 - e. For qualifying exigencies related to the foreign deployment of a military member who is the employee’s spouse, child or parent.
2. Definitions
 - a. "Eligible" employee shall mean:
 - (1) An employee who has been employed by the College for at least twelve months prior to requesting leave or
 - (2) An employee who has been employed for at least 1250 hours of service during the previous twelve month period.
 - b. "Serious Health Condition" shall mean an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility or a period of incapacity of three or more consecutive days and continuing treatment by a health care provider.
3. Notice
 - a. Where the leave provided for hereunder is foreseeable based on an expected birth or child placement, the employee shall provide thirty (30) days’ notice before the leave is to begin to their immediate supervisor and the Office of Human Resources.
 - b. Where the leave provided for hereunder is foreseeable based on planned medical treatment, the employee shall make efforts to schedule the treatment so as not to disrupt the operations of the College and, when possible, shall provide their immediate supervisor and the Office of Human Resources with thirty (30) days’ notice before the leave is to begin.
 - c. Timely notification as required by this section may be waived by the President or designee upon receipt of evidence satisfactory to the President or designee that an employee was unable to make such timely notification directly or by an agent because of unforeseen and unanticipated circumstances beyond the employee’s control.
 - d. When the need for leave is not foreseeable, the employee must provide as much notice as possible to both their supervisor and the Office of Human Resources

- e. An eligible employee requesting leave hereunder will be given the following written notice by the Office of Human Resources:
- (1) designating the leave as FMLA;
 - (2) that the leave will be counted against the employee's 12-month FMLA entitlement;
 - (3) of any medical certification required and the consequence of the employee's failure to provide such medical certification;
 - (4) that the employee will be required to use all accrued, paid leave before being in an unpaid status;
 - (5) any health insurance premium contribution that will be required to be made by the employee during the leave;
 - (6) any medical certification that may be required prior to return to duty;
 - (7) the employee's right to restoration to the same or an equivalent job upon return from leave;
 - (8) the circumstances in which the employee will be liable for payment of health insurance premiums paid by the College during the employee's unpaid leave, if the employee fails to return to work after taking the leave.

4. Medical Certification

The College may require that the employee provide medical certification by a health care provider of the individual receiving treatment. If the College doubts the validity of the medical certification provided by the employee, the College at its expense may direct the employee to obtain the opinion of a second health care provider designated by the College. When the second medical certification differs from the first, the College may direct at its expense, the employee obtain a third opinion from a health care provider approved jointly by the College and the employee. The third medical certification shall be considered to be final and binding on the College and the employee. The College may require subsequent periodic recertification on a reasonable basis. Failure to submit any medical certification requested within fifteen (15) calendar days of the request, may result in the leave being denied until medical certification is submitted. In the event leave is taken because of a serious health condition of the employee, the College may require prior to the employee's return, medical certification by a health care provider that the employee is able to resume work.

5. Maintenance of Health Benefits

- a. Except as provided in paragraph "b" hereafter, during any period that an eligible employee takes leave pursuant to this section, the College will maintain coverage under any group health plan in which the employee participates for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. The employee shall be billed directly by the College for their percentage share of the cost of such coverage, if any, during the period of the leave.
- b. In the event the employee fails to return from leave, the College will recover the premium that the College paid for maintaining coverage for the employee under such group health plan during the period of unpaid leave, provided the employee's failure to return is not due to circumstances beyond the employee's control or a continuation, recurrence, or onset of a serious health condition that would have entitled the employee to leave under this section and the employee has provided the College medical certification of said serious health condition. Health insurance coverage will not be maintained by the College beyond the period of the expiration of the initial leave.

6. Use of Accrued Leave

Employees on Family and Medical Leave shall be required to use all accrued, paid leave before being in an unpaid status by utilizing all accumulated sick leave first, personal leave second, and vacation leave third. Employees will not continue to accrue leave during any period of unpaid leave.

7. Miscellaneous

- a. Spouses employed by the College shall be limited to the aggregate number of twelve work weeks of leave to which both are entitled during any twelve-month period if such leave is taken for any other reason than the employee is unable to perform the functions of their position because of a serious health condition or to care for the employee's sick parent.
- b. Leave to bond with a child who is born, adopted, or in foster care shall not be taken intermittently without the consent of the President. The President in granting a request for intermittent leave may require the employee transfer to an alternative position, without loss of pay or benefits, that better accommodates intermittent periods of leave.
- c. Upon return from leave, any eligible employee shall be restored to the position the employee held when the leave commenced or be restored to an equivalent position with equivalent pay and benefits.

8. Military Family Leave Provisions

SUNY Schenectady provides the following two types of leave for military families pursuant to the FMLA:

a. Qualifying Exigency Leave -

Eligible employees who are the spouse, son, daughter, or parent of a military member may take up to 12 work weeks of unpaid, job protected leave during any rolling 12-month period for qualifying exigencies that arise when a military member is deployed to a foreign country, such as attending military sponsored functions, making appropriate financial and legal arrangements, arranging for alternative childcare or attending official military ceremonies as the family member prepares to deploy. This provision applies to the families of members of both the active duty and reserve components of the Armed Forces.

b. Military Caregiver Leave

Eligible employees who are the spouse, son, daughter, parent or next of kin of a covered service member may take up to 26 work weeks of unpaid, job protected leave during a single 12-month period to care for the service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list or for a serious injury or illness incurred or aggravated in the line of duty on active duty. This provision applies to the families of members of both the active duty and reserve components of the Armed Forces. An eligible employee will first be required to substitute applicable accrued sick, personal, and vacation leave before being in an unpaid status.

9. Modifications

The Family and Medical Leave provided for herein shall be modified in accordance with any subsequent legislative action taken to repeal, modify, revise, or amend the Family and Medical Leave Act of 1993.

Approved by the Board of Trustees: 12/20/93, Resolution #93-133; revised 5/18/09, Resolution #09-42; Revised 3/18/13, Resolution #13-40; Revised 6/21/21, Resolution # 21-70