Kirkwood
COMMUNITY COLLEGE

College Procedure: 402.13 – Family and Medical Leave Act

Policy Reference:	402 – Employee Benefits and Compensation
Responsible Department:	Human Resources
Approval Authority:	Cabinet
Procedure Owner:	Vice President, Human Resources and Institutional Effectiveness
Effective Date:	08/17/2012
Version Number:	3
Legal Counsel Reviewed (yes/no):	Yes (Bradley & Riley)
Scope:	College-wide

Reason for Procedure

Kirkwood is committed to ensuring the opportunity for unpaid leave for physical and mental conditions, in compliance with federal regulations.

The Procedure

Under federal law, employees are eligible for up to 12 weeks of unpaid leave. In general, family and medical leave is available to eligible employees for the following reasons:

- Birth or placement for adoption or foster care of a child;
- To care for a spouse, son, daughter or parent with a serious health condition;
- Serious health condition of an employee that causes inability to work;
- For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is a covered service member on covered active duty;
- 26 work weeks of leave to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent or next of kin to the employee.

Eligible employees, who meet one of the qualifying events, must apply for FMLA leave by contacting Human Resources. Employees are required to use available leave banks (sick leave, personal leave, vacation, PTO) when on medical or family leave. Human Resources will determine the number of paid leave hours available to the employee. If the employee exhausts leave banks, they will be unpaid until they return to work.

If eligible and leave is for personal illness, the hours used for time away will come from the employee's available sick, personal and vacation banks. If the leave is for a family member, the employee will use available family illness, personal and vacation leave banks.

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Eligibility

Employees who have been employed by the college for 12 months or more and who have been paid for at least 1250 hours in the 12 months preceding the leave request may be entitled to unpaid family and/or medical leave. Human Resources will determine an employee's eligibility for FMLA leave based upon the 12 months immediately preceding the date the requested leave is to begin.

You must notify the college at least 30 calendar days (or if not possible as soon as practical) before any proposed period of leave is to begin. Kirkwood reserves the right to deny or delay the start of any requested leave until appropriate notice is given. In the event of an emergency, notice must be provided where possible, to Human Resources no later than two business days after the commencement of leave. Failure to timely notify Human Resources of the need for leave may result in the denial of your leave request.

The employee will receive a letter outlining the steps to follow to meet standards for FMLA leave.

The employee will also receive from Human Resources:

1. "Family and Medical Leave Request" document to complete and return to Human Resources.
2. "Health Care Provider Certification" document to take to the healthcare provider to be completed and returned to Human Resources within 15 days of the request.
3. "Return to Work Evaluation" document that must be completed by the healthcare provider and submitted to Human Resources before returning to work, providing the leave was for the employee's own serious medical condition. The employee's job description will be attached to the "Return to Work Evaluation".
4. The employee's job description must be given to the healthcare provider when determining ability to return to work. **(Note: the supervisor may NOT alter the job description to meet the needs of the employee's condition. This is an Americans with Disabilities Act decision made by Human Resources based on a request from the employee.)**

Type and Amount of Leave Available

Employees are generally entitled to 12 work weeks of unpaid leave during a rolling calendar year (measured backward from the date the employee begins FMLA leave) regardless of the number of events, for any one or combination of the following reasons:

A. Birth or Placement of a Child

Unpaid leave may be taken by an employee on the birth or placement for adoption or foster care of a son or daughter. Leave must be taken all at once unless the college agrees to intermittent leave. If the employee takes leave in less than full-day increments, the employee may receive compensation consistent with the hours the employee actually works. The leave entitlement for birth or placement for adoption or foster care ends 12 months after the birth or placement for adoption or foster care, subject to the above limitations on intermittent leave.

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An employee will use, to the extent permitted, any accrued paid leave time during the otherwise unpaid leave period including sick, personal and vacation leave hours, as applicable. Exhausted leave accounts will result in unpaid leave. Sick leave may be used for childbirth leave until the employee has been medically released to return to work. Upon medical release, the employee must use personal or vacation leave banks.

B. Medical Leave

Eligible employees will use available medical leave hours for their own "serious health condition". The employee must use sick, personal and vacation leave banks.

Employees may also take medical leave to care for a child, spouse or parent with a "serious health condition." The condition must generally exist for 3 or more calendar days, unless the condition is chronic and/or long term. The employee must use their family illness, personal, or their vacation banks. Exhausted leave accounts will result in unpaid leave.

Continuing treatment by a health care provider may include one or more of the following:

- A period of incapacity of 3 or more consecutive, work days plus treatment by a healthcare provider twice, or once with a continuing regimen of treatment;
- Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence;
- Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period, requires periodic visits (at least twice a year) to a health care provider and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence;
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment;
- Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of 3 or more work days if not treated.

Medical leave may be taken all at once or in smaller increments as medically necessary. If leave is taken in smaller increments, you may be temporarily transferred to another position. You will receive reduced compensation consistent with the hours actually worked.

If you suffer a work-related injury/illness that qualifies as a serious health condition, federal leave provided under this policy will be considered as utilized along with the leave request under the workers' compensation laws. If the injury/illness is determined not to be work related, any available leave will run concurrently with the period of absence.

C. Qualifying Exigencies Associated with the Call to Active Duty

Under federal law, eligible employees may take leave for certain qualifying situations relating to a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan. This leave may be taken on an intermittent or reduced schedule basis where

reasonable notice is given to the college. When you are allowed to take leave in less than one-week increments, you will receive reduced compensation consistent with the hours actually worked.

The College may require certification of the service member's status and impending leave.

D. Illness or Injury of Service Members

An employee who is a spouse, child, parent or "next of kin" of a member of the Armed Forces may be entitled to leave to provide care for a service member who has incurred a serious illness or injury in the line of duty. The illness or injury must make the service member medically unfit to perform the duties of their office, grade, rank or rating. This is a one-time period of leave. This type of leave, combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period.

Employees may use, to the extent permitted by law, any accrued paid leave the employee may have at the time of leave including illness in family, personal and vacation leave. Extensions of leave will not be allowed, unless required by law.

Leave to care for a service member may be taken on an intermittent or reduced schedule when medically necessary. If leave is taken in smaller increments, the college may require you to transfer temporarily to an alternative position. When you are allowed to take leave in less than one-week increments, you will receive reduced compensation consistent with the hours you actually work. Leave taken will count toward the leave to which you may be entitled, under applicable federal law.

Medical Certification

Employees requesting a medical leave of absence for a serious health condition, whether for his/her own or that of an eligible family member, must provide the college with a Health Care Provider Certification completed by the treating health care practitioner. Certification will also be required for leave to care for an ill or injured service member. This document must be provided to Human Resources within 15 calendar days after the College requests the information. Failure to provide this documentation on a timely basis may result in the delay or denial of leave. Extensions may be available if requested in advance of the due date of the Certification. Medical Certification documents will be sent to an eligible employee upon receipt of the FMLA request.

In the event the Certification is incomplete or contains insufficient information with which to evaluate your leave request, the college may request a clarification of the Certification from your health care practitioner. Any requested clarification must be completed and returned to the college within seven calendar days after the request, unless the College agrees to an extended response date.

After receiving the Health Care Provider Certification, the college may require that an employee see a health care practitioner designated by the college to verify the information provided. The college will pay the cost of this examination. If the results of the second examination differ from the original certification, the college may require a third examination, again at the college's expense, by a mutually agreed upon health care practitioner. The college and the employee are obligated to cooperate in selecting a suitable health care practitioner. The results of this third examination will be final and binding on the employee and the college as to the classification of the employee's leave request.

When an employee takes leave because of his or her own serious health condition, the college may require the employee to submit additional Certifications periodically during the leave. Recertification may be requested every 30-calendar-days or more as permitted by law if the facts and circumstances do not appear to support the original Certification or the college has information that casts doubt on the stated reason for the leave. In such a case, a recertification of the serious health condition may be requested at an earlier point in time. The college will provide notice to the employee if a recertification is required.

Benefits during Family and Medical Leave

The college will pay up to 12 months of the employer portion of the premiums for medical, dental and vision coverage for non-faculty employees who are on FMLA leave and are an active employee. Faculty employees should refer to the KFA Agreement. Employees who have elected family medical, dental or vision coverage are responsible for premium payments. Employees who elected other benefits are also responsible for premium payments. Financial arrangements can be made with Human Resources.

If an employee fails to return to work for any reason, including the termination of their employment because their leave of absence has exceeded the maximum period permitted under college policy, all premiums owed will become payable to the college in full within 30 days following the termination date.

Employees on leave will not lose accrued seniority or benefits while on leave; however, additional seniority and benefits will not accrue during the period of unpaid leave. Employees on leave, who have not exhausted their applicable leave banks, will receive their annual allotment of paid leave at the beginning of the fiscal year. Employees, who have exhausted applicable paid leave banks by the end of the fiscal year, will not receive their annual allotment until they return to work.

Intermittent Leave Requests

If medical need exists, Human Resources will determine whether your medical need is best accommodated through intermittent or reduced leave schedule. During a period of intermittent leave, the college may transfer you to an alternate position. You will be paid at the rate you were entitled to prior to leave, with the same benefits.

Returning From Family or Medical Leave

Employees returning from family or medical leave, when possible, will give the college at least one week, but not less than two workdays, notice of their intent to return to work. Any employee who returns from family leave or medical leave within 12 weeks, or less will be reinstated to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. However, the college cannot guarantee reinstatement to employees whose leave extends beyond 12 weeks in any 12-month period, except to the extent necessary to comply with federal and college policy. Employees on leave will not accrue greater employment or benefit rights than those to which they would have been eligible if they had not taken leave.

If you are on leave for 3 or more workdays because of your own serious health condition, the college requires that you provide a "Release to Return to Work" form before returning to work. If you fail to provide a release, you will not be allowed to work.

Leave for Spouses Employed by Kirkwood Community College

If both spouses are employed by Kirkwood Community College, they are entitled to a combined total of 12 weeks of leave for the birth or placement of a child or to care for a parent with a serious health condition. As an example, if the mother and father both are employees of Kirkwood, and the mother takes 6 weeks of family leave (separate from any leave available to her due to her serious health condition) on the birth of a child, the father is entitled to no more than 6 weeks of family leave for the birth of that child. The fact that both spouses are employed by Kirkwood does not affect their right to take additional leave for other purposes where such leave is available.

To care for an ill or injured service member, if the college employs both spouses, they are entitled to a combination of 26 weeks of leave between them.

Failure to Meet Requirements

If you fail to meet the requirements for family and medical leave, your request for leave may be denied. Any period of absence not covered by FMLA will be administered under Kirkwood's "Work Hours/Attendance" policy.

Employee Leave Request Documents

To properly record FMLA hours, as required by law, employees must complete a paper "Employee Leave Request" with the proper leave account(s) checked, the number of hours noted and FMLA circled. Should the leave accounts be exhausted, an "Employee Leave Request" is still required and should note FMLA-unpaid.

Employees must also keep their Electronic Time and Attendance current for each pay period or make arrangements with their supervisor to have the supervisor complete their time entries.

References

FMLA Employee Rights and Responsibilities

Definitions

Spouse: Husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including "common law" marriage and "same-sex marriage".

Son or Daughter: Biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis.

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Parent: Biological, adoptive, stepmother or father, foster mother or father or someone who stands or stood in loco parentis to the employee when the employee wasunder the age of 18 or incapable of self-care.

Serious Health Condition: Illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Incapable of Selfcare: Person cannot provide three or more "Activities of Daily Living" for himself or herself.

Mental or Physical Disability: Impairment that limits one or more major life activities as defined by ADA.

Revision Log

Table 1 Revision Log

Version Number	Date Approved	Approved by	Description of Change
1	08/17/2012	Jim Choate, Vice President, Finance	New procedure
2	05/12/2017	Mick Starcevich, President	New template
3	06/11/2019	Cabinet	Procedure template
4	11/02/2026	HR Department	Reviewed, no edits