



FAMILY AND MEDICAL LEAVES

Purpose

This policy outlines the basic procedures governing Family and Medical Leaves. Family and Medical Leaves are employee leaves of absence for child care, personal medical care and family medical care. This policy also outlines the basic procedures governing brief absences for certain other family purposes, referred to in this policy as Small Necessities Leaves, as well as absences for certain non-FMLA maternity leaves authorized under Massachusetts law.

This policy is intended to implement the federal Family and Medical Leave Act of 1993 (FMLA), the Massachusetts Maternity Leave Act (MMLA) and the Massachusetts Small Necessities Leave Act (SNLA).

Eligibility

A. Family and Medical Leaves and Small Necessities Leaves

An employee will be eligible to seek a Family and Medical Leave or a Small Necessities Leave if (1) the employee has worked for the College for at least 12 months, (2) the employee has worked for the College for at least 1,250 hours during the 12 months before the leave and (3) at least 50 employees work at the same worksite or otherwise work within a 75-mile traveling distance from the employer's worksite.

B. Massachusetts Maternity Leaves

Some employees who are not eligible for a Family and Medical Leave may nevertheless be eligible for a leave of absence for childbirth or adoption pursuant to Massachusetts law. Specifically, employees who meet the eligibility criteria specified in the MMLA (*i.e.*, full-time female employees who have been employed for at least three months) may be eligible for eight-week leaves of absence for the purpose of giving birth or adopting a child. Such an eight-week leave of absence is referred to in this policy as a "Massachusetts Maternity Leave."

Types of Family and Medical Leaves

Employees may qualify for any of three types of Family and Medical Leaves. Throughout this policy, the term "Family and Medical Leave" refers to any of these three types of leaves:

A. Birth, Adoption and Child Care Leave

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An employee may take a Birth, Adoption and Child Care Leave because of the birth, adoption or foster care placement of a child and for care of that child. The leave must be completed within 12 months of the child's birth, adoption or foster care placement.

B. Family Illness Leave

An employee may take a Family Illness Leave to care for a seriously ill or injured spouse, parent or child. The illness or injury must be a "serious health condition" within the meaning of the FMLA. Basically, a "serious health condition" means a physical or mental condition that involves inpatient care or continuing treatment by a health care provider. If the leave is for care of a child, the child must either be under age 18 or unable to care for himself or herself due to a mental or physical disability.

C. Employee Illness Leave

An employee may take an Employee Illness Leave because of an illness or injury that makes the employee unable to perform his or her job. As with a Family Illness Leave, the illness or injury must be a serious health condition.

Small Necessities Leaves

Small Necessities Leaves are absences of an employee for any of the following purposes:

- A. to participate in school activities directly related to the educational advancement of a child of the employee, such as parent-teacher conferences or interviewing for a new school;
- B. to accompany a child of the employee or an elderly relative of the employee to routine medical or dental appointments, such as check-ups or vaccinations; or
- C. to accompany an elderly relative of the employee to appointments for other professional services related to the elderly relative's care, such as interviewing at nursing or group homes.

For purposes of this policy, an elderly relative of an employee is an individual of at least 60 years of age who is related by blood or marriage to the employee.

Notice and Scheduling of Leave

An employee taking a Family and Medical Leave, a Massachusetts Maternity Leave or a Small Necessities Leave should give written notice by complying with the College's "Request for Leave of Absence" form and submitting it to Human Resources.

When the leave is a Birth, Adoption and Child Care Leave or a Massachusetts Maternity Leave, the employee must generally give at least two weeks' notice of the anticipated departure date, including a statement of intention to return to work.

If an employee plans to take a Family Illness Leave or an Employee Illness Leave because of planned medical treatment, the employee must make an effort to schedule the treatment to reduce the disruption to the College, subject to the health care provider's approval. An employee should generally consult with his or her supervisor to explore alternatives to reduce the disruption to the College. In any event, at least 30 days' written notice of the leave should generally be given to the Human Resources Department.

In some cases, an employee will not be able to give the full amount of advance notice generally required for a Birth, Adoption and Child Care Leave or for a Family and Medical Leave for planned medical treatment. When an employee cannot give the generally required notice for a legitimate reason, the employee should give as much notice as possible under the circumstances.

When a Family Illness Leave or an Employee Illness Leave is needed due to a medical reason other than planned treatment, an employee should give the Human Resources Department verbal or written notice as soon as he or she reasonably can.

When an employee's need for a Family Support Leave is foreseeable, the employee should provide at least seven days' written notice. If the employee's need for such an absence is not foreseeable, the employee should provide as much notice as is practicable.

An employee's failure to give adequate notice may delay the employee's right to take a Family and Medical Leave or a Small Necessities Leave or may affect an employee's rights to a Massachusetts Maternity Leave.

Confirmation of Leave

A. Family and Medical Leaves

After an eligible employee gives notice of intent to take a Family and Medical Leave, the College will designate the leave as Family and Medical Leave. That designation will generally be provided by a memorandum confirming receipt of the notice of the leave and setting forth some of the basic employee rights and obligations.

If an employee is ineligible for Family and Medical Leave but requests such leave, the College shall provide notice to the employee of the College's determination of ineligibility.

Employees requesting an Employee Illness Leave or a Family Illness Leave will generally be required to provide a medical certification if the leave is expected to continue for more than five calendar days. When requested, the certification must be

provided within 15 calendar days of the request. The College may, in some cases and at its expense, require a second and sometimes a third certification.

Employees on an Employee Illness Leave or a Family Illness Leave for which medical certification is initially required may also be required to provide subsequent medical certifications. The cost of providing any such certifications, if any, will be borne by the employee.

Moreover, employees on leave may be contacted periodically for updates concerning their status and intent to return. Employees are expected to be fully responsive to such requests for updates.

B. Small Necessities Leaves

Within two business days of making a request for a Small Necessities Leave, an employee may be required to provide a certification signed by the employee within the following two business days stating the date of the absence, the duration of the absence, and the purpose of the absence. The College reserves the right to require any employee to provide reasonable additional information to verify the reason for requesting a leave.

Length of Leave and Restoration Rights

A. General

In general, an employee will be entitled to a maximum of 12 weeks of Family and Medical Leave and 24 hours of Small Necessities Leave during any 12-month period. The 12-month period is a rolling period measured backward from the date an employee uses any leave under this policy. Each time an employee takes any Family and Medical Leave, the remaining leave entitlement will be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.

When an employee is eligible for both a Birth, Adoption and Child Care Leave and a Massachusetts Maternity Leave, both leaves will run concurrently. However, the expiration of Family and Medical Leave rights does not itself deprive an employee of Massachusetts Maternity Leave rights, if she continues to be eligible for leave after that expiration under the MMLA.

B. Nature of the Leave

Unless otherwise approved, a Birth, Adoption and Child Care Leave or a Massachusetts Maternity Leave must be taken at one time and must be taken before the end of the 12-month period beginning on the date of the child's birth or placement. A Family Illness Leave or an Employee Illness Leave may be taken through either a reduced working schedule or intermittently if such an arrangement is certified to be medically necessary (or if the College approves such an arrangement in its discretion). If an employee is entitled to a Family Illness Leave or an Employee Illness Leave on a reduced work

schedule or intermittent basis, the College may transfer the employee temporarily to a position for which he or she is qualified and which has equivalent pay and benefits if the alternative position would better accommodate the recurring leaves than the employee's regular position.

C. Special Rule Applicable to Spouses who are Both Employed by the College

If the College employs both spouses, the total Birth, Adoption and Child Care Leave to which they will be entitled together will be 12 weeks in any 12-month period.

Restoration Rights

General

At the end of a Family and Medical Leave or a Small Necessities Leave, an employee will generally have the right to return to his or her last position before the leave or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. An employee returning from a Massachusetts Maternity Leave will generally have the right to return to her last position or a similar position. In returning from any of these leaves, the employee will not lose any benefit rights, such as vacation, to the extent that those benefit rights accrued before the leave period.

Limitations

A. Notice of Change of Length of Leave

If an employee becomes aware of changed circumstances that will foreseeably increase or decrease his or her need for Family and Medical Leave or Small Necessities Leave, the employee must give the College notice of the anticipated change of the length of the leave within two business days of learning of the anticipated change of the length of the leave.

B. Adverse Actions During the Leave

An employee will not be entitled to more favorable employment terms as a result of taking a Family and Medical Leave or a Small Necessities Leave than he or she would have had if no leave had been taken. Thus, an employee who takes a Family and Medical Leave will be subject to any pay or benefit reductions or other adverse actions, including layoff, that the employee would have experienced if he or she had not been on a Family and Medical Leave. In certain limited circumstances, an employee may have further restoration rights after a Massachusetts Maternity Leave.

C. Certification Before Return

Before an employee may return from an Employee Illness Leave that has continued for at least 15 calendar days, the employee's health care provider may be required to certify

that the employee is able to resume his or her job. The employee will be required to bear the costs of such a certification.

Pay and Benefits

A. Pay

Family and Medical Leaves, Small Necessities Leaves and Massachusetts Maternity Leaves are generally not paid leaves. However, an employee may substitute a paid leave for which the employee is eligible for otherwise unpaid leave. Such a substitution will be counted against the employee's use of leave.

If no other paid leave is available but an employee is eligible for accrued paid leave, such as vacation pay or paid personal days, the employee may use that accrued leave during a leave under this policy until it is exhausted. Where the leave is a Massachusetts Maternity Leave, the employee may, but is not required to, substitute accrued paid leave for unpaid leave.

B. One Month Parental Leave with Pay—Special Benefit

The College offers employees, as a benefit, a one-month paid Parental Leave. Parental leave runs concurrently with FMLA and MMLA leave. The details of that leave are set forth in Section 6.6, Wheelock Employee Handbook. (This is a Wheelock benefit, not a requirement under FMLA.)

C. Maintenance of Health Benefits

During a Family and Medical Leave, the College will continue the employee's medical and dental insurance coverage, provided that the employee pays for the regular employee share of such coverage on a timely basis as if he or she had remained actively employed. During any paid leave, the employee share of the premiums will be deducted from the employee's pay. During the unpaid portion of a Family and Medical Leave, the employee will be required to pay the employee's share by delivering the payment so that it is received by the College no later than the 1st day of each month. If payment is more than 30 days late, the College may terminate benefits until the employee returns to work.

If the employee fails to return from the leave, the College may be entitled to recover from the employee the portions of medical and dental insurance premiums that were paid for by the College with respect to the unpaid portion of the leave. The College will be entitled to recover these amounts unless the employee's failure to return was due to a serious health condition (within the meaning of the FMLA) or if there are other circumstances beyond the employee's control. If the employee states that he or she is unable to return from the leave because of a serious health condition, the College may require the employee to provide a medical certification.

D. Other Benefits

Group life insurance and long-term disability insurance will also be maintained during a Family and Medical Leave, subject to the same cost-sharing applicable to active employees. Employees eligible only for a Massachusetts Maternity Leave are entitled to such continuation as well.

Medical Records

Documents relating to medical certifications, recertifications or medical histories of employees or employees' family members will be maintained separately and treated as confidential medical records, except that in some legally recognized circumstances, the records (or information in them) may be disclosed to supervisors and managers, first aid and safety personnel, or government officials as permitted by law.

Questions and Assistance Regarding FMLA and Leaves

Please consult with Susan Fedo, Director of Human Resources, with your questions about the FMLA Policy and Leaves of Absence. Dr. Fedo can be reached at by phone at (617) 879-2114, in person on campus in Room 340, Activities West, Wheelock College, 200 The Riverway, Boston, MA 02215.

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