

Title:	Family and Medical Leave Act (FMLA) Policy
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□Responsibility:	Executive Director of Human Resources

Policy

The Family and Medical Leave Act (FMLA) provides job protection for eligible employees. The policy and procedures will be administered in accordance with the provisions of the Family and Medical Leave Act of 1993.

Procedure

Eligibility To be eligible for leave under the FMLA, an employee must:

- (1) have completed 12 months of service for the College; and
- (2) have worked at least 1,250 hours during the 12-month period immediately preceding the request for leave.; and
- (3) work at a location where at least 50 of the College’s employees are located within 75 miles.

Eligible employees are entitled to a total of 12 workweeks of unpaid leave during any rolling 12-month period when leave is taken for one or more of the following reasons:

- Birth or adoption of a child of the employee, or placement of a child with the employee for foster care.
- To care for the spouse, child, or parent of the employee, if the family member has a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee’s job.
- To address the “qualifying exigency” of a spouse, child, or parent arising as the result of a call to active duty in the armed forces, or as the result of a member of the regular armed forces deployed to a foreign country.

Family Member includes an employee’s spouse, child, and parent (but not a parent “in-law”). A child is any child under 18 who is the biological, adopted, or foster child of the employee, or age 18 or older but who is incapable of self-care because of a mental or physical disability, or for whom the employees stands in loco parentis. Family member includes individuals who stood in loco parentis to the employee. A parent is the biological parent of the employee, or one who stood in the place of the biological parent when the employee was a child.

Eligible employees are entitled to a total of 26 weeks of “caregiver” leave in a single 12-month period to care for a spouse, child, parent or “next of kin” who is seriously ill or injured in the line of duty in active military-service. Caregiver leave may also be taken (1) to care for veterans who served in the regular Armed Forces or the Reserves within 5 years of the date a veteran undergoes medical treatment, recuperation, or therapy; or (2) to provide care as a result of the aggravation of existing or preexisting injuries incurred in the line of duty while on active duty.

Temporary or part-time employees working fewer than 1,250 hours per year are not eligible for FMLA leave.

Spouses who are both employed by Cecil College are jointly entitled to a combined total of 12 weeks of leave for the birth or placement for adoption or foster care of a child or for the care of a sick parent. The limitation on the amount of leave for spouses working for the same employer does not apply to FMLA leave taken for some qualifying reasons. Eligible spouses who work for the same employer are each entitled to up to 12 workweeks of FMLA leave in a 12-month period, without regard to the amount of leave their spouses use, for the following FMLA-qualifying leave reasons: (1) the care of a spouse or child with a serious health condition; (2) a serious health condition that makes the employee unable to perform the essential functions of their job; and (3) any qualifying exigency arising out of the fact that the employee’s spouse, child, or parent is a military member on “covered active duty.”

Health Conditions

A serious health condition is defined as an illness, injury, impairment or physical or mental condition that requires in-patient care in a hospital, hospice or residential medical care facility, or that requires continuing treatment by a health care provider; a period of incapacity that makes an individual unable to attend work, school, or perform other daily activities for more than three (3) days and that requires continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated, would likely result in incapacity for more than three days. The definition of serious health condition is not meant to cover short-term conditions where treatment and recovery are brief; routine physical examinations; or voluntary or cosmetic treatments that are not medically necessary, unless in-patient hospital care is required.

If leave is requested for an employee’s own serious health condition or the serious health condition of a family member, legible medical certification (on the required form) must be submitted within 15 days of making the request to invoke FMLA protection. Cecil College may require updated certifications during the period of FMLA absence and will require a return-to-work documentation for employees off work due to their own medical condition. The periodic updates will not be required more frequently than every 30 days. The College may require and pay for a second opinion from qualified health providers of its choice. The College may require and pay for a third opinion from a mutually agreed upon health provider.

Advance Notice. If the need for FMLA leave is foreseeable, an employee must give Cecil College at least 30 days advance notice. In addition, when foreseeable leave is for planned medical treatment, a reasonable effort must be made to schedule the treatment so as not to unduly disrupt the college’s operations. If the need for FMLA is unforeseeable, an employee must inform the College at least two hours before their shift starts.

Effect on Other Leave. Cecil College requires that an employee uses available sick, personal and annual leave, in that order, before being placed on leave without pay status. An employee's available sick, personal, and annual leave runs concurrently with FMLA leave. Once available paid leave is exhausted, FMLA leave will be without pay. For employees who are enrolled in Short Term Disability and are approved, the College will follow the leave rules outlined by short term disability.

Return from Leave. When an employee returns from the medical leave, they must provide medical certification that they are able to resume work.

Employees may return to either their former position or, if that position is no longer available, to an equivalent position with equivalent benefits, pay, and conditions of employment. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA period.

Other Conditions. Cecil College will continue to pay its portion of an employee's health insurance premiums, provided the employee pays their portion while on FMLA leave. An employee on unpaid FMLA must make arrangements to pay the employee-portion of the premiums. Failure to pay may result in loss of coverage. However, if they do not return to work after the leave, the College may elect to recover any health insurance premiums paid unless the employee remains absent because of: (1) the continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave, or (2) other circumstances beyond the employee's control.

FMLA leave may be taken on an intermittent or part-time basis when it is medically necessary to care for a seriously ill family member or because of the employee's own serious health condition. Intermittent leave is not available for bonding time for a new child in the household (birth, adoption, or placement of a foster child) unless agreed to by the employee's Vice President and Human Resources.

While employees are on leave, the College requires that they periodically report to Human Resources about their status and their intention to return to work. The College also may require medical certification of on-going need for leave. Family leave may not be initiated after the twelve-month period following the birth, adoption, or placement of a foster child.

Cecil College reaffirms its commitment to full compliance with the FMLA and reserves any and all rights and privileges granted to employers under the laws mandating family and medical leave, even if not expressly set forth in this policy.

Employees that need additional time off after exhaustion of FMLA leave may submit a request for a reasonable accommodation to the Office of Human Resources. In the event additional leave is approved beyond an employee's FMLA entitlement, restoration to the same or equivalent job is not guaranteed. Leave requests exceeding the 12 week FMLA allotment will be considered on a case-by-case basis, consistent with applicable law, and taking into consideration the length of leave, the College's and departmental needs, college policy and procedure, budgetary resources, and other relevant factors.

The College does not interfere with an employee's exercise of FMLA rights or discriminate or retaliate against any employee for exercising FMLA rights.

An employee who fraudulently obtains Family and Medical Leave from the College is not protected by the FMLA's job restoration or maintenance of health benefits provisions. In addition, the College will take all available appropriate disciplinary action, up to and including termination, against such employee due to such fraud.

Employees should contact the Executive Director of Human Resources for questions about the FMLA.