

### **Family and Medical Leave (Policy 5.04)**

Kansas City Kansas Community College (KCKCC) shall provide family and medical leave to eligible employees who experience a qualifying event as required by the Family Medical Leave Act (“FMLA”) and state law.

Eligible employees may take up to 12 weeks of unpaid FMLA leave within any twelve (12) month period (employees eligible for military caregiver leave may take up to 26 weeks of unpaid FMLA leave).

#### **Eligibility**

To be eligible for FMLA leave, an-employee must meet the following requirements.

1. Worked for KCKCC for at least twelve (12) months;
2. Worked at least one thousand, two hundred and fifty (1,250) hours in the twelve months immediate preceding the start of leave; and
3. Worked at a worksite with at least fifty (50) employees within a seventy-five (75) mile radius of the worksite.

#### **Types of Leave Covered**

The College will provide up to twelve (12) unpaid work weeks for leave within any twelve (12) month period for the following reasons.

1. The birth of a child or placement of a child with the employee for adoption or foster care;
2. To care for a spouse, child or parent who has a serious health condition;
3. For a serious health condition that makes the employee unable to perform the essential functions of their job; or
4. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

#### **Leave for the Birth or Care of a Child**

1. Leave for the birth, adoption or foster care of a child must be taken within the twelve (12) month period following the birth, adoption or placement of the child.
2. Leave for the birth, adoption or foster care of a child may not be taken on an intermittent or reduced hour basis unless the supervisor and Human Resources concur with the request.

#### **Leave for Medical Care Caused by a Serious Health Condition**

Definition of a serious health condition: the term "serious health condition" shall be defined as any illness, injury, impairment or physical or mental condition that involves:

- a. Inpatient care (i.e., overnight stay) in a hospital, hospice, or residential medical care facility; or
- b. Continuing treatment by a health care provider. For purposes of this policy, “continuing treatment by a health care provider” includes:
  - (1) a period of incapacity for more than three (3) consecutive calendar days and either
    - (a) treatment two (2) or more times, within thirty (30) days, for the same condition,
    - or

- (b) treatment by a health care provider at least one time, resulting in a continuing regimen of treatment;
- c. Pregnancy or prenatal care;
- d. Any period of incapacity or treatment for a chronic serious health condition;
- e. Period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
- f. Any period of absence to receive multiple treatments for a condition that would likely result in a period of incapacity if not treated.

#### Service member Family Medical Leave and Military Family Leave Entitlement

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post deployment reintegration briefings.

An eligible employee may take leave for up to a total of twenty-six (26) workweeks in a single twelve (12) month period to care for a covered service member with a serious injury or illness. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status, or is on the temporary disability retired list; or a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, provided the veteran was a member of the Armed Forces at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

#### Notification of the Need for Leave and of Any Absence Related to a Leave

Employees should submit requests for FMLA leave in writing to Human Resources. Notice should ordinarily be provided at least 30 days in advance of the requested leave. Employees who have been approved for intermittent leave should report absences in accordance with normal reporting procedures by identifying the leave as FMLA leave on the absence notification. Failure to follow the absence reporting procedures may result in disciplinary action. If leave is not foreseeable, then notice should be provided as soon as possible normally within 1 or 2 business days of learning of the need for leave. The request may be made verbally with a follow-up request in writing indicating the beginning of the date and anticipated return to work date.

When notifying Human Resources of the need for leave, an employee must provide sufficient information. The employee must also provide the anticipated timing and duration of the leave of absence. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform Human Resources if the requested leave is for a reason for which leave was previously taken or certified as FMLA leave.

Employees must make a reasonable effort to schedule foreseeable planned medical treatment so as not to unduly disrupt KCKCC's operation subject to the approval of the health care provider, as appropriate.

KCKCC reserves the right to place an employee taking leave for a foreseeable planned medical treatment in an alternative position with equivalent pay and benefits that would accommodate intermittent absences associated with the treatment.

#### Review of Leave Request

Upon receipt of notice from the employee, KCKCC will provisionally designate the employee's leave as FMLA pending receipt of required documentation which must be received within 15 calendar days from the beginning date of the leave request. If the employee fails to provide the required documentation or KCKCC is not otherwise able to confirm that the employee's leave qualifies under the FMLA, then the leave will not be designated as FMLA leave.

#### Medical Certification & Documentation While on Leave

An employee requesting leave because of his or her own or a covered family member's health condition, must supply a complete and sufficient medical certification of the condition. If the leave is for a qualifying military exigency, the employee must supply a complete and sufficient certification of the exigency. When an employee requests leave, Human Resources will notify the employee of the requirement for certification and its due date. Failure to timely provide requested certification or to provide one that is incomplete and/or insufficient will result in denial or delay of leave.

**Parental Leave:** Employees must submit a statement that contains information outlined in United States Department of Labor form WH-380-E and/or WH-380-F for the birth and care of an employee's child. Employees seeking Parental Leave for the placement and care of a child through adoption or foster care must provide written certification from the employee's attorney or adoption agency stating that the employee is the process of adopting or becoming a foster parent, describing any anticipated reasons for leave and estimating how long the process is expected to take.

**Family Illness:** Employees must submit a statement that contains information outlined in United States Department of Labor form WH-380-E.

**Personal Illness:** Employees must submit a statement that contains information outlined in United States Department of Labor form WH-380-E.

**Exigency Leave:** Employees must submit a statement that contains information outlined in United States Department of Labor form WH-384.

**Military Caregiver Leave:** Employees must submit a statement that contains the information outlined in United States Department of Labor Form WH-385.

**Updated Information.** If Leave extends beyond thirty (30) calendar days, KCKCC may require periodic updates and/or recertification for continued FMLA Leave.

**Review of Medical Certification.** KCKCC may require, at its expense, the opinion of a second health care provider designated or approved, but not regularly employed, by the KCKCC. IF this second opinion differs from the first opinion, KCKCC may require, at its expense, the opinion of a third health care provider, designated or approved jointly by the employee and KCKCC. The opinion rendered by the third health care provider is final and binding on the employee and KCKCC. The College may also request authentication and clarification of any medical

certification that is submitted by contacting the health care provider. KCKCC may require subsequent medical recertification on a reasonable basis as needed or permitted by law.

Employees who sustain work-related injuries are eligible for a leave for the period of disability in accordance with all applicable laws covering occupational disabilities.

#### Pay While on Leave

Any approved leave is unpaid in nature. However, employees are required to use any other available paid or unpaid leave concurrently with FMLA leave. This includes sick leave, personal leave, vacation, workers' compensation or short-term disability. All available paid leave is to be exhausted prior to having unpaid time-off under an approved FMLA leave. Paid leave does not extend the approved leave period.

#### Benefits While on FMLA

Benefit accruals, such as vacation, sick or holiday benefits will be suspended during the unpaid portion of the leave. Employees will remain active in the group health insurance program. KCKCC will continue to pay the percentage of premiums normally paid for KCKCC and they will be responsible for continuing to pay your regular portion of the premiums for group health insurance coverage. Contact the Benefits Coordinator for information regarding payment of insurance premiums.

#### Reporting While on Leave

When an employee takes a leave they must stay in communication with Human Resources as requested. Prior to returning to work and if the employee's actual return to work date has not already been submitted in writing to Human Resources (e.g., because the actual return to work date was initially unknown), an employee must provide two weeks' notice of their intent to return and such date of their expected return. If an employee is able to return to work earlier than the date initially submitted to Human Resources, the employee must provide at least two days' advance notice of the new return to work date.

#### Returning From FMLA Leave

At the end of a Family and Medical leave entitlement, the employee will be restored to the position held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment, unless, and in compliance with any requirements of the Americans with Disabilities Act, the employee is unable to perform the essential functions of the job. However, employees on leave have no greater right to reinstatement than if they had been continuously at work. Changes in hours, schedules, duties, jobs, benefits, pay, work location, and the like may occur due to the College needs.

Upon return from a personal medical leave, employees will be required to submit medical certification that they are fit for duty. You may not return to work before such certification is provided. Failure to provide such certification may result in delay of reinstatement. Failure to report to work promptly at the end of the approved leave period will be treated as a voluntary resignation and will result in termination of employment.

### Permissible and Prohibited Activities While on Leave

As a general rule, an employee who is on an approved leave of absence is expected to engage in only those activities that are necessary for, consistent with, and appropriate for the purpose of the leave, and the employee is not permitted to engage in any other activities. An employee is also prohibited from working elsewhere or engaging in self-employment while on leave (including working any additional job the employee was working while also working for the KCKCC, without the advance written consent of Human Resources).

### Coordination of Family Medical Leave of Spouses

A married couple with both spouses employed by KCKCC are limited to a combined total of twelve (12) workweeks of FMLA Leave during a 12-month period for the birth, adoption or foster care placement of a child with the employees, for aftercare of the newborn or newly placed child, and to care for a parent with a serious health condition. Each spouse may be entitled to additional FMLA Leave for other qualifying reasons (i.e., the difference between the leave taken individually for any of the above reasons and twelve (12) workweeks, but not more than a total of twelve (12) workweeks per person). For example, if each spouse took six (6) weeks due to his/her own serious health condition or to care for a child with a serious health condition.

A married couple with both spouses employed by KCKCC are limited to a combined total of twenty-six (26) workweeks of leave to care for a military caregiver leave during a single 12-month period. The twenty-six (26) workweek time period will be reduced, however, by the number of days of leave the employee took under the Act for other qualifying reasons.

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