



SUBJECT: Personnel

POLICY: 406.2 Family and Medical Leave

EFFECTIVE: December 2007

REVISED: March 2023 **REVIEWED:**

Introduction and Purpose

This policy provides the framework to administer the [Family Medical Leave Act \(FMLA\)](#) (herein after referred to as FMLA) at Great Falls College. This policy also provides employees with information about FMLA and outlines any obligations employers and employees may have during such leaves. Employees and supervisors may direct questions regarding FMLA leave to Human Resources.

The FMLA allows eligible employees to take reasonable, job-protected leave for qualifying family and medical reasons and requires group health benefits to be maintained during the leave.

Policy

Intent to Comply with the Law

The provisions of this policy are intended to comply with Family and Medical Leave Act of 1993, as amended, and any terms used from the FMLA will be as defined in the Act or the U.S. Department of Labor regulations. To the extent that this policy is incomplete, ambiguous, or contradicts the Act or regulations, the language of the Act or regulation will prevail or supplement the policy. Great Falls College reserves the right to amend this policy from time to time to comply with any changes to the Act or regulations.

Eligibility

An employee is eligible to request an FMLA leave if the employee has worked for the college a minimum of twelve (12) month (which need not be consecutive or served just prior to taking leave).

Note: "Key employees" as defined in FMLA regulations are not excluded from FMLA leave.

Basic FMLA 12-Week Leave

Twelve (12) weeks of FMLA leave is available during a rolling twelve (12) month period; that is the twelve (12) month period measured forward from the first date of leave designated as FMLA leave. Under this "rolling" method, an eligible employee is entitled to twelve (12) weeks of leave during the twelve (12) month period beginning on the first date FMLA leave is taken.

FMLA Events

Eligible employees may request, and will be granted, up to twelve (12) work weeks of FMLA leave within a twelve (12) month period for the following events:

- The birth of a n employee's child and to care for a newborn within one (1) year of birth;
- The placement of a child for adoption or foster care with an employee and to care for the newly placed child within one (1) year of placement;
- To care for the employee's spouse, son, daughter, or parent with a Serious Health Condition;
- For an employee's own Serious Health Condition which makes the employee unable to perform the functions of their job; or



- For any Qualifying Exigency arising when an employee's spouse, son, daughter, or parent is a military member, including members of the National Guard and Reserves and the Regular Armed Forces, on covered active duty or notified of an impending call or order to covered active duty. Examples of Qualifying Exigencies for such employees are: military events, childcare and school activities, arranging care for military member's parents who are incapable of self-care, financial and legal arrangements, certain types of counseling, rest and recuperation, and post-deployment activities.

Eligible employees may take FMLA leave for the birth or placement of a child within twelve (12) months of the birth or placement. Maternity and parental leave runs concurrently with FMLA leave. When both parents are Great Falls College employees, each employee is entitled to twelve (12) weeks of FMLA leave.

Eligible part-time employees will receive pro-rated leave based on the average weekly hours in a pay status.

Military Caregiver 26-week FMLA Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to take up to twenty-six (26) weeks of leave in a single twelve (12) month period to care for the service member with a Serious Injury or Illness.

Military Caregiver FMLA leave may not exceed twenty-six (26) weeks during the single twelve (12) month period begins on the first day the employee takes leave to care for a covered service member, even if basic FMLA leave was taken within the twelve (12) months prior. In no twelve (12) month period may an employee's total FMLA leave (basic plus caregiver) exceed twenty-six (26) workweeks.

Eligible part-time employees will receive pro-rated leave based on the average weekly hours in a pay status.

Intermittent Leave or Reduced Schedule Leave

FMLA leave will usually be taken for a period of consecutive days, weeks, or months. However, eligible employees may take FMLA leave intermittently or on a reduced leave schedule when medically necessary because of:

- The employee's own Serious Health Condition;
- To care for a spouse, parent, or son or daughter with a Serious Health Condition, or
- To care for a covered service member with a Serious Injury or Illness.

The employee must provide certification confirming the medical necessity for intermittent leave for a Serious Health Condition.

If an employee needs leave intermittently for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so it does not unduly disrupt college operations.



Eligible employees may request intermittent leave or reduced schedule leave for a Qualifying Exigency or following a birth or adoption, subject to college approval. In this case, the employee will notify their supervisor as soon as the need for leave is known and propose a schedule that minimizes disruption of the workplace. The supervisor and Human Resources will review the proposal to determine whether the intermittent leave can be taken without significant interruption of the department's operation.

In all cases of intermittent and reduced schedule leaves, the college reserves the right to transfer an employee to another position that better accommodates the employee's need for leave and the college's operations. This decision is at the discretion of the college. The alternative position must have equivalent pay and benefits.

College Notice Requirements

Eligibility Notice

- Within five (5) business days of (1) an employee's request for FMLA leave, or (2) the college learning an employee's leave may qualify as FMLA leave, the college will provide written notice of the employee's eligibility for FMLA leave. If the college determines the employee is not eligible for FMLA, the notice will state the reason. If the employee is eligible for FMLA leave, the notice will provide additional information required by the FMLA regulations.

Designation Notice

- Within five (5) business days of the college's acquiring sufficient information to determine whether an employee's leave qualifies as FMLA leave, the college will notify the employee of whether the leave qualifies as FMLA leave. The notice will also advise of any fitness for duty requirements and, if known, the amount of FMLA leave exhausted.

Employee FMLA Notice Requirements

An employee requesting FMLA leave must provide:

- At least thirty (30) day advance oral or written notice of the need to take FMLA leave when the need is foreseeable; or
- Timely notice, as soon as possible and practical, when the need for FMLA is not foreseeable; and
- Sufficient information for the college to understand the leave is for an FMLA qualifying reason including, if known, the timing and duration of the leave.

If an employee fails to provide enough information to make a determination, the college may deny the FMLA leave.

Employees who are seeking additional leave because of a previously qualified FMLA reason, and who have not exhausted their FMLA leave benefits, must continue to provide sufficient information to Human Resources to allow proper recording, accounting, and tracking of the use of FMLA leave.



Definitions

The following commonly used definitions are summarized for convenience:

a. Child

A biological, adopted, or foster child, stepchild, legal ward, or a child or a person standing in loco parentis who is either under age 18 or is age 18 or older and “incapable of self-care because of a mental or physical disability” at the time the FMLA leave is to commence. The “child” who is a “covered service member” for purposes of exigency leave or military caregiver leave includes sons and daughters of any age.

b. Basic FMLA Year

The college uses the twelve (12) month period measured forward from the first date of leave designated as an eligible employee’s FMLA leave. Under this method, an eligible employee is entitled to twelve (12) weeks of leave during the twelve (12) month period beginning on the first date FMLA leave is taken; the next twelve (12) month period would begin the first time FMLA leave is taken after the completion of any previous twelve (12) month period.

c. Business Days

A calendar day in which the college offices responsible for administering FMLA are open for business. This does not include Saturdays, Sundays, or legal holidays.

d. Covered Active Duty

In the case of a member of a regular component of the Armed Forces, this term means duty during the deployment of the member with the Armed Forces to a foreign country. In the case of a member of a reserve component of the Armed Forces, this term means duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under [Section 101\(a\)\(13\)\(B\) of title 10](#), United States Code.

e. Exigency, Qualifying Exigency

A need related to the fact the employee’s spouse, son, daughter, or parent is a military member on covered active duty and meets the criteria in [29 CFR §825.126](#).

f. Serious Injury or Illness

An injury or illness incurred by the covered service member in the line of duty on covered active duty which may render the service member medically unfit to perform the duties of their office, grade, rank, or rating.

g. Condition

An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

h. Inpatient Care

An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity as defined in [29 CFR §825.113\(b\)](#); or any subsequent treatment in connection with such inpatient care.

i. Continuing Treatment

Any one or more of the following: incapacity and treatment, pregnancy or prenatal care, chronic conditions, permanent or long-term conditions, or conditions requiring multiple treatments.

j. Spouse



GREAT FALLS COLLEGE
MONTANA STATE UNIVERSITY

A husband or wife, as defined or recognized under state laws on legal marriage in the State in which the marriage was entered.

References

[Federal Family and Medical Leave Act](#)

Montana Code Annotated [2-18-606](#), [2-18-618](#)

Collective Bargaining Agreements