

## APPENDIX G FAMILY AND MEDICAL LEAVE POLICY

The Governing Board of Cabrillo College will grant family and medical leave in accordance with the requirements of applicable state and federal law in effect at the time the leave is granted. No greater or lesser leave benefits will be granted than those set forth in such state or federal laws unless so provided in a collective bargaining agreement with Cabrillo College employees. In certain situations, the federal law requires that provisions of state law apply. In any case, employees will be eligible for the most liberal benefits available under either law.

To the extent that this policy provides more generous benefits than are currently provided in the Cabrillo College Faculty Agreement and the CCEU Agreement, the provisions of this policy and the law shall apply.

An employee should contact his/her supervisor or the Human Resources office as soon as he/she becomes aware of the need for a family and medical leave. Supervisors should gather sufficient information to enable him/her to ascertain whether an employee may be entitled to family and medical leave, even if the employee does not specifically request such leave. Supervisors must refer all employees requesting or potentially entitled to a family and medical leave to the Human Resources office.

### **Definitions**

- (1) **Child:** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 or an adult dependent child.
- (2) **Parent:** A biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
- (3) **Spouse:** A husband or wife as defined under California law. (Note: common law marriage is not recognized under California law.)
- (4) **Serious Health Condition:** An illness, injury or impairment, or physical or mental condition that involves either  
(a) inpatient care in a hospital, hospice or residential health care facility, or (b) continuing treatment or continuing supervision by a health care provider.

### **Employee Eligibility**

To be eligible for family and medical leave benefits, an employee must:

- (1) have worked for the District for a total of at least 12 months (need not be consecutive), and
- (2) have worked at least 1,250 hours during the 12 calendar months immediately preceding the date of the leave, except overtime exempt employees and full-time educators who are

deemed to meet the 1,250 hour requirement if they meet the 12 month requirement stated in (1) above, and

- (3) work at a location where at least 50 employees are employed by the District within 75 miles.

**Allowable Reasons for Family and Medical Leave**

Eligible employees may be granted family and medical leave for one or more of the following reasons:

- (1) for the birth of a child or placement of a child with the employee for adoption or foster care; or
- (2) to care for an immediate family member (spouse, child or parent) with a serious health condition; or
- (3) when the employee is unable to work because of his/her own serious health condition.

**Leave Available**

Eligible full-time employees may receive up to a total of 12 work weeks (60 work days) of unpaid leave during a rolling 12-month period. The maximum family and medical leave for an eligible part-time employee is prorated based on the percentage of full-time he/she works.

The rolling 12 -month period will be counted backward from the date an employee uses any family and medical leave. The amount of family and medical leave available to an eligible employee will be 12 work weeks less any family and medical leave used during the rolling 12-month period.

If both spouses are employed by the District, the maximum family and medical leave available for the birth or placement of a child will be an aggregate of 12 work weeks for both spouses.

Under some circumstances, employees may take family and medical leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule. Employees should contact the Human Resources department regarding their individual situation.

Pregnant employees may have right to take a pregnancy disability leave in addition to a family and medical leave; such employees should contact the Human Resources department regarding their individual situation.

**Notice and Certification**

Employees seeking to use family and medical leave may be required to provide:

- (1) 30-day notice when the need for the leave is foreseeable;

- (2) when the need for family and medical leave is unforeseeable, normally five working days notice, and not less than one day's notice, unless the employee is able to demonstrate extraordinary circumstances, in which case no advance notice shall be required;
- (3) medical certification (prior to leave) of need for leave requested for reasons of "serious health condition" of self or immediate family member, and recertification if additional leave is required;
- (4) medical certification (prior to reinstatement) of fitness-for-duty of employee returning from leave that was for employee's own serious health condition. The employee must be notified when leave is requested that a fitness-for-duty certification may be required prior to reinstatement;
- (5) periodic recertification; and
- (6) periodic reports during the leave.

When leave is needed to care for an immediate family member or the employee's own serious health condition, and if for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the District's operation.

When leave is requested for the birth or placement of a child, the leave must be initiated within one year of the birth or placement.

### **Compensation During Leave and Concurrent Use of Accrued Paid Leave**

Family and medical leave is unpaid leave.

The District will require an employee to use accrued paid leave concurrently with the family and medical leave, as follows:

- (1) Employee will be required to use all accrued vacation leave, comp time, "Critical Illness of a Family Member" leave, and differential pay leave during the period of family and medical leave;
- (2) When family and medical leave is requested for an employee's own serious health condition, employee will be required to use all accrued sick leave and/or personal injury and illness leave during the period of family and medical leave;
- (3) When family and medical leave is requested to care for the serious health condition of an immediate family member or for birth or placement of a child, the employee may request to use his/her balance of accrued Personal Necessity Leave during the period of family and medical leave. The employee will not be allowed to use accrued sick leave and/or personal injury and illness leave (other than Personal Necessity Leave) for family and medical leave request to care for the serious health condition on an immediate family member or for birth or placement of a child.

- (4) When an employee's industrial illness or injury meets the definition of a "serious health condition" in a family and medical leave law, then an eligible employee must use paid disability leave under industrial accident and illness laws and regulations during the period of the family and medical leave.

The District will designate an employee's leave, paid or unpaid, as family or medical leave under the federal or state law, based on the information provided by the employee when leave is requested. If the District designates paid leave as family or medical leave, it must make this designation before the leave starts, or before an extension of leave is granted, and must immediately notify the employee of the designation.

The District will keep records on employee family and medical leaves that will enable verification of the leave taken, leave remaining, and other provisions of this policy.

### **Benefits During Leave**

- (1) Group Health Benefits:

The District will maintain group health insurance coverage for an employee on family and medical leave for up to a maximum of 12 work weeks if such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work.

In some instances, the District may recover premiums it paid to maintain health coverage for an employee who fails to return to work following family or medical leave.

Employees are entitled to new health plans or benefits, or changes, which occur during their leave, and the District will give notice of such changes. If premiums are raised or lowered, an employee on family and medical leave must pay new rate if paying a portion of premiums.

- (2) Other benefits requiring premium payments:

For benefits other than group health benefits, an employee may elect to continue them during a family and medical leave by self-paying premiums.

- (3) Retirement Plans:

With respect to retirement plans, the period of family and medical care leave is treated as continued service for purposes of vesting and eligibility to participate.

- (4) Longevity:

For purposes of determining longevity, a family and medical care leave shall not constitute a break in service.

- (5) Accrual of Benefits:

An employee on family and medical leave will continue to accrue benefits only during leave which is concurrently taken as accrued paid leave (vacation leave, comp time,

Critical Illness of a Family Member leave, differential pay leave, sick leave). During leave without pay, no benefits will accrue.

### **Benefit Reinstatement**

Employee benefits will be resumed following a family and medical leave in the same manner and at the same level as were provided by the District when the leave began, other than benefit changes which affected the entire work force.

If an employee chooses not to retain group health coverage or other employer-offered insurance policies during a family and medical leave, he/she is entitled to reinstatement with the same terms upon return, with no qualifying period, exams or exclusions.

An employee returns from a family and medical leave with no less seniority (District hire date) than when the leave commenced.

### **Job Reinstatement**

Except for defined "key employees," an employee, upon return from family and medical leave, will be reinstated to his/her original job, or to an equivalent job with equivalent pay, benefits and other employment terms and conditions. However, an employee is not entitled to any position other than that which he/she would have had if he/she had not taken leave. The District is allowed to deny return to work in a position, which ceased to exist during the leave for legitimate business reasons.

Key employees are defined as salaried employees who are among the highest paid 10% of the employees of the District employed within 75 miles of the facility at which the employee works. Under certain conditions, the employer may refuse to reinstate key employee upon return from a family and medical leave.

### **Notice to Employees**

The District will post a notice of family and medical leave provisions in areas accessible to employees. In addition, the District will provide detailed notice of specific expectations, obligations, and consequences of failure, to the employee when a family and medical leave is requested.

### **Unlawful Acts**

It is unlawful for the District to interfere with, restrain, or deny the exercise of any right provided by state or federal law. It is also unlawful for the District to refuse to hire or to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceedings related to family and medical leave.