

It is the policy of the Board of Trustees of Southeastern Illinois College (the "Board") to comply with the provisions of the Federal Family and Medical Leave Act of 1993 (the "FMLA") and the regulations promulgated hereunder. Employees are to be able to participate in early child rearing of their children, to care for family members with serious health conditions, or be absent from work due to their own serious illness, without being forced to choose between such family obligations and job security. Accordingly, all eligible College employees shall be entitled to a Family Medical Leave, on a gender neutral basis provided the leave is taken in accordance with the following provisions.

1. **Eligible Employee:** An employee who has been employed for at least twelve (12) months, has worked at least 1,250 hours during the previous twelve (12) month period and is employed at a worksite where the Board employs at least 50 employees within a 75-mile radius. The twelve (12) month period during which the twelve (12) weeks of leave entitlement occurs shall be calculated based upon the College's fiscal year (July 1 to June 30).
2. **Purpose of Leave:** Eligible employees shall be allowed Family Medical Leave for one or more of the following:
 - a. The birth of an employee's child and to care for such child;
 - b. Placement of a child with an employee for adoption or foster care;
 - c. To care for an employee's family member (spouse, child, or parent) who suffers from a serious health condition; and
 - d. A Serious health condition that makes an employee unable to perform the functions of his/her position.
 - e. Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or
 - f. Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).
3. **Term of Leave:** Eligible employees shall be entitled to a total of twelve (12) workweeks of unpaid leave during the twelve (12) month period, as set forth in Section 1, subject to the following:
 - a. The employee must state a qualifying reason for the needed leave to enable the Board to determine whether the purpose for the leave is one allowed under the FMLA;
 - b. The entitlement to leave because of the birth or placement of a child expires on (1) calendar year after the date of birth of placement;
 - c. A husband and wife who are both employed by the Board and both eligible for leave are only permitted to take a combined total of twelve (12) weeks of leave during any twelve (12) month period if the leave is taken because of the birth or placement of a child;
 - d. Leave may be taken on an intermittent basis (in separate blocks of time due to a single illness or injury) or reduced schedule (reducing the usual number of hours per week or per day) if medically necessary when the purpose of the leave is to care for a seriously

- ill family member or for the employee's own serious health condition. Leave may be taken on an intermittent basis or reduced schedule only with Board approval when the purpose of the leave is the birth or placement of a child for adoption or foster care; and
- e. If the employee request paid accrued leave and the Board determines the purpose for the leave is one applicable under this policy, the Board may notify the employee that the paid leave must be utilized prior to any unpaid leave and will be counted against the employee's twelve (12) weeks of leave granted under this policy. This notice shall be made as soon as practicable following the employee's request for paid accrued leave and the employee's provision of sufficient information to the Board to determine the reason for the leave.
 - f. Subject to section 103, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member. The leave shall only be available during a single-month period. Nothing in this paragraph shall be construed to limit the availability of leave during any 12-month period.
4. **Notice Requirements:** When the leave is foreseeable, (i.e., based upon an expected birth or placement for adoption or foster care, or planned medical treatment for the employee or the employee's seriously ill family member), the employee is required to notify the Executive Assistant to the President, or his/her designee, not less than 30 days before the date the leave is to begin, of the intention to take leave pursuant to this policy. If the circumstances (i.e., date of birth or planned treatment) require the leave to begin in less than 30 days, the employee shall notify the Executive Assistant to the President or designee as soon as practicable. The employee shall make a reasonable effort to schedule the planned treatment so as not to unduly disrupt operations, subject to the approval of the health care provider involved in administering the treatment. The Board may deny an employee's leave request until at least 30 days after the date the employee provides notice of the intention to take leave for unreasonable failure to provide timely advance notice for foreseeable leaves.
 5. **Substitution of Paid Leave:** An employee entitled to paid family leave of less than twelve (12) work weeks within a twelve (12) month period shall also be entitled to the additional weeks of leave on an unpaid basis necessary to attain the total of the twelve (12) workweeks of leave granted under this policy. An eligible employee may elect, or the Board may require, that the employee substitute accrued paid leave for all or any part of the unpaid twelve (12) weeks of leave granted, pursuant to this policy under the following circumstances:
 - a. Accrued paid vacation or personal leave may be substituted for leave for any purpose granted under this policy.
 - b. Accrued paid sick leave may be substituted if the leave is taken in order to care for a seriously ill family member or for the employee's own serious health condition.
 6. **Medical Certification:** The Board may require that requests seeking leave to care for a seriously ill family member or for the employee's own serious health condition be supported by medical certification from the family member's or the employee's health care provider. For foreseeable leaves, the certification shall be provided to the Executive Assistant to the President or designee within fifteen (15) calendar days from the date the

Board request such certification or as soon thereafter as is practicable. Notice for leave due to active duty of family member is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable. For unforeseeable leaves, the employee is required to provide certification as soon as is practicable, under the circumstances, after the date the Board requests such certification. The certification shall contain the following:

- a. Date the serious health condition began;
- b. The health care provider's best medical judgment concerning the probable duration of the condition;
- c. A diagnosis of the condition and a brief statement of the prescribed treatment regimen, including whether inpatient hospitalization is required
- d. If the purpose of the leave is to care for a seriously ill family member, a statement that the employee is needed to care for the family member including an estimate of the amount of time that the employee will be needed;
- e. If the purpose of the leave is for the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her position;
- f. In the case where intermittent or reduced schedule leave is requested for planned medical treatment, a statement of the dates and duration of such treatment;
- g. In the case where intermittent or reduce schedule leave is requested to care for a seriously ill family member of for the employee's own serious health condition, a statement that the intermittent or reduced leave schedule is medically necessary for the seriously ill employee, or necessary for the care of the family member, including the expected duration of the intermittent or reduced schedule leave.

In cases where the Board has reason to doubt the validity of a medical certification it may require the employee to obtain a second opinion, at Board expense. The Board shall select the health care provider to supply the second opinion. In cases where the medical opinions in the first and second certifications conflict, the Board may require the employee to obtain a third certification, at Board expense. The third health care provider shall be jointly selected by the Board and the employee and this certification shall be final and binding upon both the Board and the employee.

The Board reserves the right to request certification at a later date in cases where it does not initially request medical certification to support the leave request, but it later has reason to question the appropriateness or duration of the leave. The Board may deny a leave request, for foreseeable leaves, or deny continuation of leave, for unforeseeable leaves, until the employee provides the required certification.

7. **Medical Recertification:** The Board may request certification at reasonable intervals, but not more often than once every thirty (30) days. The Board may request recertification, regardless of the length of time since the last request, for the following:
 - a. When the employee requests a leave extension;
 - b. When the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); and

c. When the Board receives information that casts doubt upon the continuing validity of the original certification.

8. **Maintenance of Health Benefits:** The Board shall maintain the employee's group health plan coverage for the duration of Family Medical Leave taken on the same basis, at the same level and under the same conditions coverage would have been provided had the employee not taken leave. The Board and the employee shall continue to pay their respective shares of the health care premiums during the duration of the leave as if the leave had not been taken. The Board may recover from the employee its share of any premium payments for any periods of unpaid leave if the employee fails to return to work after their leave entitlement has been exhausted. The Board also may recover any portion of the premium paid by the Board which the employee was obligated to pay.

If the employee substitutes paid leave for unpaid leave under this policy, the employee's share of the health care premiums shall be paid by the method the Board normally utilizes during any employee's paid leave. If the leave is unpaid, the employee shall pay his/her share of the premium on the same schedule as if it were being made by payroll deduction.

9. **Return to Employment:** At the end of the leave period taken pursuant to this policy, the employee shall be returned to the position held immediately prior to taking the leave, except for key employees under the circumstances set forth below. If that position is unavailable, the Board shall return the employee to an available position that the employee is qualified to hold with equivalent pay, benefits and other terms and condition of employment. The right to reinstatement ceases and the employment relationship between the employee and the Board will be deemed terminated if the employee unequivocally informs the Board of his/her intent not to return to employment at the end of the leave period.

For key employees (a salaried FMLA-eligible employee who is among the highest paid 10% of all employees [salaried and unsalaried; eligible and ineligible] employed by the Board within 75 miles of that employee's worksite) the Board may deny reinstatement under the following circumstances:

- a. The employee has been notified, in writing, either when leave is requested or when leave begins that he/she qualifies as a key employee and as such the possibility exists that they will not be reinstated at the end of the leave;
- b. The Board determines the denial is necessary to prevent substantial and grievous economic injury to the College's operations;
- c. The Board notifies the key employee of its intent not to reinstate the employee on this basis; and
- d. In cases where the key employee begins the leave and elects not to return to employment after receiving notice from the Board of its intent not to reinstate the employee.

The Board may require the employee to submit medical certification from a health care provider, stating that the employee is now able to resume work, if the basis for the Family

Medical Leave was the employee's own serious health condition. The Board may deny the employee's return to work until the certification is submitted.

Adopted:

Amended: September 19, 2006/September 23, 2008

Legal Ref: DOL Amendments January 1, 2009; 77 FR 8962 (Feb. 15, 2012)