

**3358:11-5-44 Family and medical leave policy.**

- (A) Purpose. Owens community college understands the importance of family issues in today's work force. The college also recognizes that more of its employees than ever before face conflicting demands of family obligations and work. Because an employee may find it necessary to take leave from their job for a temporary period to address certain family responsibilities or their own serious health conditions and in order to comply with the Family and Medical Leave Act of 1993 Public Law 103-3, Owens community college hereby establishes its family and medical leave rule.
- (B) Eligibility. In order to qualify under this rule, an employee must meet both of the following conditions:
- (1) Must have been employed by Owens community college for at least twelve months or fifty-two weeks prior to the leave request. The twelve months, or fifty-two weeks, need not be consecutive.
  - (2) Must have worked at least one thousand two hundred fifty hours during the twelve month period immediately before the date when the leave would begin.
- (C) Type of leave covered. The college will grant an eligible employee up to twelve weeks of family and medical leave during each twelve month period (July first through June thirtieth) in accordance with the Family and Medical Leave Act of 1993 Public Law 103-3, if the procedures in this rule are followed and leave is requested for any of the following reasons:
- (1) The birth of a son or daughter of an employee and in order to care for that child.
  - (2) The placement of a son or a daughter with an employee for adoption or foster care.
  - (3) To care for a spouse, son, daughter or parent of an employee if the family member has a serious health condition.
  - (4) An employee's own serious health condition that renders them unable to perform the functions of their position.
  - (5) Qualifying exigency (as secretary (of defense) shall, by regulation, determine) arising out of the fact that the spouse, or son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty, in support of a contingency operation.
- (D) Type of leave covered. The college will grant an eligible employee up to twenty-six weeks of family and medical leave during each twelve month period (July first through June thirtieth) in accordance with the Family and Medical Leave Act of 1993 Public Law 103-3, if the procedures in this rule are followed and leave is requested for any of the following reasons:

Leave to care for a family member (spouse, son, daughter, parent, or next of kin) of a service member who is recovering from a serious illness or injury sustained in the line of active duty.

(E) Serious health condition. An employee may take leave because of a serious health condition that makes them unable to perform the functions of their position. A serious health condition includes any of the following:

- (1) Hospital care. Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- (2) Absence plus treatment. A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:

- (a) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider.

Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations.

- (b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

A regimen of continuing treatment includes, for example, a course of prescription medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

- (3) Pregnancy. Any period of incapacity due to pregnancy or for prenatal care.
- (4) Chronic conditions requiring treatments. A chronic condition which:
  - (a) Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider.
  - (b) Continues over an extended period of time (including recurring episodes of a single underlying condition).

- (c) May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.)
- (5) Permanent/long-term conditions requiring supervision. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under continuing supervision of, but need not be receiving treatment by, a health care provider. Examples including Alzheimer's, a severe stroke or the terminal stages of a disease.
- (6) Multiple treatments (non-chronic conditions). Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).
- (7) The college requires the employee to provide a doctor's certification of a serious health condition. If an employee has questions about what illnesses may be covered under Family and Medical Leave Act of 1993 Public Law 103-3 or under the college's sick leave plan (rule 3358:11-5-55 of the Administrative Code), they should contact the human resources office.
- (8) If an employee takes paid sick leave for a condition that progresses into a serious health condition and they request leave as provided by this rule, the college will designate all or some portion of related leave taken as leave under this rule, to the extent that the earlier leave meets the necessary qualifications.
- (F) Benefits while on leave. While on leave under Family and Medical Leave Act of 1993 Public Law 103-3, the college will continue the employee's health benefits during the leave period at the same level and under the same conditions as if they had continued to work. If an employee chooses not to return to work for reasons other than the continuation, recurrence or onset of a serious health condition which would entitle them to leave or other circumstances beyond their control, the college will require them to reimburse the college for the amount it has paid for their health insurance premium during the leave period.
- (G) Status after leave. If an employee takes leave under FMLA, they will be able to return to the same job or an equivalent job. (In accordance with the law, the college may choose to exempt certain highly compensated employees from this requirement and not return them to the same or similar position.)
- (H) Use of paid and unpaid leave.

- (1) If an employee has accrued sick leave and if they are taking leave because of their own serious health condition or the serious health condition of a family member, they must use paid sick leave first and take the remainder of the twelve weeks as unpaid leave. If they have vacation leave available to them, they must also use this paid leave before taking unpaid leave. (For example, if they have one week of vacation and one week of sick leave, they would be able to take two weeks of paid leave and ten weeks of unpaid leave under this rule.)
  - (2) If an employee is taking leave for the birth of a child, they must use paid sick leave for physical recovery following childbirth per doctor's note. They must then use vacation leave, if available. They will then be eligible for the remainder of the twelve weeks as unpaid leave.
  - (3) If an employee is taking leave for adoption or foster care of a child and they have paid vacation available to them, they must use paid vacation leave prior to taking unpaid leave.
  - (4) If an employee is taking leave to care for a family member with a serious health condition and they have paid vacation available to them, they must use paid vacation leave prior to taking unpaid leave.
  - (5) Leave under this rule shall be for a maximum of twelve weeks total. This total shall include both paid and unpaid leave.
- (I) Intermittent leave or a reduced work schedule. For a personal illness or to care for a sick family member, an employee need not take such leave continuously. They may take it on an intermittent basis or by reducing their scheduled work hours if they provide certification from the health care provider that leave must be taken in that manner. The college may temporarily transfer the employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent leave or reduced leave schedule. Request for intermittent leave or reduced leave schedule after the birth, adoption or foster care placement of a child will be considered on a case by case basis and must be approved by Human Resources.
- (J) Certification of serious health condition.
- (1) The college requires certification of a serious health condition by a health care provider to support a request for leave. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification will result in a denial of leave.
  - (2) The college has a right to ask for a second opinion if it has reason to doubt the certification. The college will pay for the employee to get a certification from a second doctor, whom the college will select. If necessary to resolve a conflict between the

original certification and the second opinion, the college will require the opinion of a third doctor. The college and the employee will jointly select a third doctor, and the college will pay for the opinion. This third opinion will be considered final.

- (K) Procedure for requesting leave. Except where leave is not foreseeable, the employee must submit a family and medical leave request form to their immediate supervisor and the human resources office thirty days prior to the start of requested leave. (If an employee is undergoing planned medical treatment, they must make a reasonable effort to schedule the treatment to minimize disruptions to the college's operations.) If it is not possible to give thirty days notice, they must give as much notice as practicable. If they fail to provide thirty days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least thirty days from the date the college receives notice. While on leave, the employee must report periodically to the human resources office regarding the status of the medical condition and their intent to return to work.

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