



Southern West Virginia Community and Technical College

**IMPORTANT NOTICE
REGARDING YOUR REQUEST
FOR MEDICAL LEAVE
DUE TO EMPLOYEE'S
SERIOUS HEALTH CONDITION**

NAME: _____

Date: _____

This will serve as official notification that your medical leave counts toward entitlement of the Family and Medical Leave Act of 1993 (FMLA), as applicable, which provides up to 12 weeks job-protected leave to eligible employees for certain family and medical reasons. This period of medical leave also counts toward entitlement provided by the WV Parental Leave Act, as applicable.

Policy SCP-2006 Employee Leave requires employees who have been absent longer than two consecutive work weeks, due to medical reasons for themselves or a family member, complete a request for medical leave and the supporting physician's statement. Failure to comply with policy may result in the employee being removed from the payroll.

Once your leave is approved, you will remain on the institution's payroll until the expiration of your sick and annual leave. Prior to this expiration date you may wish to request Catastrophic Leave, wherein other employees may donate leave time to you so as not to disrupt your receipt of income.

If your disability is continuous for six (6) months, you will need to make a claim for benefits with the group long-term disability plan (if you are a participant in this plan).

You should also file a claim for disability benefits with the Social Security Administration and your group retirement plan.

Please refer to SCP-2006 for additional information regarding Employee Leave.

Contact:

Debbie Dingess in the Human Resources Office
(304.896.7416 or debbied@southern.wvnet.edu)



LEAVE REQUEST

Employee Name _____

Date Submitted _____

Request for Leave

	Annual Leave	Sick Leave	Other: _____
Date(s):			
Time(s):			
Number of Hours to be Charged to Leave:			

Request to Attend Meeting/Seminar

I. Name of Meeting or Seminar _____

II. Date/s _____

III. Time _____

IV. Estimated Length of Meeting _____

V. Meeting Location _____

FMLA Notice

The extent of your leave used for medical reasons counts toward entitlement of the Family and Medical Leave Act of 1993 (FMLA), as applicable, which provides up to 12 weeks job-protected leave to eligible employees for certain family and medical reasons.

Overtime and Compensatory Time

For requests and approvals for Compensatory Time and to work Overtime, please refer to SCP-2575 and SCP-2575.A.

ATTENTION SUPERVISOR

Please hold the Original copy until the end of the month. Attach the original to the employee's Time Card and forward to Human Resources. Make one copy for your records and one copy to return to the employee.

Employee Signature Date

Approved by Supervisor Date



Southern
SOUTHERN WEST VIRGINIA
COMMUNITY AND TECHNICAL COLLEGE
www.southern.wvnet.edu

RETURN TO WORK AUTHORIZATION MEDICAL RELEASE FORM

PHYSICIAN - COMPLETE IN ENTIRETY:

Patient's Name: _____

I hereby certify that the above-named employee has been under my professional care for:

(Diagnosis)

Illness commenced: _____

(Date)

Employee is able to return to work on: _____

(Date)

Describe the functional limitations/restrictions, if any, caused by this condition:

(Functional limitations listed may require an analysis of employee's Position Information Questionnaire (PIQ) for ADA accommodation)

Duration of limitations/restrictions, if any: Permanent Temporary

If temporary, indicate time period: _____

Signature of Physician

Printed Name

Address of Physician

Telephone Number of Physician

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-2006**

SUBJECT: Employee Leave

REFERENCE: West Virginia Code §18B-1-6, §18B-2A-4, West Virginia Council for Community and Technical College Education Title 135, Procedural Rule Series 38, “*Employee Leave*,” WV Code §18B-9-10 (Catastrophic Leave), West Virginia Code §15-5-15a (Disaster Service Volunteer Leave), and West Virginia Code §21-5D (The Parental Leave Act)

ORIGINATION: November 16, 2009

EFFECTIVE: March 2, 2010

REVIEWED:

SECTION 1. PURPOSE

1.1 The purpose of this policy is to establish an institutional rule in regard to all types of employee leave.

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy is applicable to all employees of Southern West Virginia Community and Technical College (the College). Particular types of leave programs may be applicable to specific categories of employees, and not others.

2.1.1 All full time employees (classified, non-classified, and faculty) are eligible for medical leave of absence without pay, parental leave, family medical leave, personal leave of absence without pay, military leave, special emergency leave with pay, disaster service volunteer leave, and witness and jury leave.

2.1.2 Faculty employees are eligible for leave as outlined in Section 6.5 entitled “Faculty Absences.” Faculty employees with less than twelve month appointments are not eligible for sick or annual leave accumulation.

2.1.3 Faculty members with twelve month administrative appointments will accumulate annual and sick leave using rules applicable to non-classified employees. Rules in Section 6.5 of this policy do not apply to faculty with twelve months administrative appointments.

2.2 Classified and non-classified employees are eligible for annual and sick leave accrual based on the following:

2.2.1 Classified and non-classified employees working on a regular and continuing basis for no less than 1950 hours within the fiscal year are eligible for leave as specified in this policy.

2.2.2 Classified and non-classified employees working between 1,040 hours and less than 1,950 on a regular and continuing basis during the fiscal year will accumulate leave on a pro rata basis.

SECTION 3. DEFINITIONS

3.1 *Family Medical Leave Act (FMLA)* – A federal law that enables qualified employees to take up to 12 weeks leave for family and health-related reasons without loss of their jobs. Amendments to the FMLA allow

additional leave for employees affected by military service requirements. Information about FMLA can be found at <http://www.dol.gov/compliance/laws/comp-fmla.htm>.

- 3.2 *West Virginia Parental Leave Act* – The West Virginia Parental Leave Act provides that a qualified employee be entitled to up to a total of 12 weeks (480 hours) of unpaid family leave (following the exhaustion of all his or her annual and personal leave) because of the birth or adoption of a child, or to care for a son, daughter, spouse, parent or dependent who has a serious health condition. The West Virginia Parental Leave Act can be found at: <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=21&art=5D#05D>.
- 3.3 *Catastrophic Leave* - Catastrophic leave is a program mandated in WV Code whereby employees may donate accrued leave for the benefit of an eligible employee who has exhausted all sick and annual leave to remain on the payroll. Information about catastrophic leave for higher education employees can be found at: <http://www.legis.state.wv.us/WVCODE/ChapterEntire.cfm?chap=18b&art=9§ion=10#nine>.
- 3.4 *Uniformed Services Employment and Reemployment Rights Act (USERRA)* - USERRA is a federal law enacted in October 1994 and significantly updated in 1996 and 1998, provides job protection and rights of reinstatement to employees who participate in the national Guard and Reserve. Information about USERRA can be found at <http://www.dol.gov/elaws/vets/userra/userra.asp>.
- 3.5 *Immediate Family* - Immediate family is defined as: father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, step children, or others considered to be members of the household and living under the same roof.
- 3.6 *Terminal Leave Period* - The time following the last day actively at work due to resignation, retirement, or other termination reason and the final pay date.
- 3.7 *Rolling Forward Calculation Method* - A method of calculating the twelve (12) month period for leave purposes. The rolling forward year is a twelve (12) month period measured forward from the date an employee's first FMLA or other type of leave begins.

SECTION 4. POLICY

- 4.1 Southern West Virginia Community and Technical College's Board of Governors provide employee leave in compliance with the rules of the West Virginia Council for Community and Technical College Education, West Virginia Code, and federal law. Employee leave provisions include annual leave, sick leave, medical leave of absence without pay, parental leave, family medical leave, catastrophic leave, personal leave of absence without pay, military leave, special emergency leave with pay, disaster service volunteer leave, and witness and jury leave.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Employees working less than 1,040 hours are not eligible for leave benefits.
- 5.2 The provisions of this policy related to annual leave, sick leave, and catastrophic leave does not apply to faculty members on annual appointments of less than twelve months.

SECTION 6. GENERAL PROVISIONS

6.1 General Leave Rules

- 6.1.1 Annual and sick leave may not be taken before it is accrued. If an employee's regular established work schedule results in the employee working less than a full month, annual and sick leave will be accumulated on a pro rata basis.

- 6.1.2 During a terminal leave period, no type of leave may be accrued.
- 6.1.3 Length of service for leave accumulation purposes will be total years of state service which includes experience with state institutions of higher education and other state agencies. Continuous service is not required to complete the required term. Annual full time appointment periods of nine (9) months or more will be credited for one (1) year of service for annual leave calculation purposes.
- 6.1.4 A recognized institutional holiday occurring during an employee's leave period will not be considered as a day of leave, provided the employee is not in a terminal leave period.
- 6.1.5 Up to fifteen (15) days of annual leave may be transferred from other agencies of state government and state higher education institutions to the College. Certification of the balance which existed in the agency or institution from which the employee is transferring must accompany the request for transfer and bear the signature of an officer of that agency. A request for transfer must be made within one (1) year from the last day of employment with the other agency or institution. In the event of special circumstances, such as recruitment for a difficult to fill position, requests for transfer of more than fifteen (15) days of annual leave must be made in writing and approved by the President or his/her designee.
- 6.1.6 When a non -faculty employee transfers from other agencies of state government or from other state institutions of higher education to the College, the employee's accumulated sick leave may be transferred. A request for transfer must be made within one (1) year from the last day of employment with the other agency or institution. Written verification of the amount of sick leave to be transferred must be provided.
- 6.1.7 When a faculty employee transfers from other agencies of state government or from other institutions of higher education to the College, the faculty employee's accumulated years of state service will be verified and documented for any state service related benefits. The College will not transfer sick leave balances from another institution for a transferring faculty member, *unless* the faculty member is transferring from a twelve-month faculty position where he/she accumulated sick leave, to a twelve-month faculty position eligible for sick leave at the College.
- 6.1.8 An employee is required to notify her/his supervisor immediately if ill or unable to work for any reason. The notification will be given to the immediate supervisor or designee, as determined by established procedures of the unit.
- 6.1.9 Employees on any type of leave without pay will not accrue annual or sick leave or years of service credit for any and all full months in which they are off the payroll.
- 6.1.10 The institution may require evidence from an employee for verification of an illness or other causes for which leave may be granted under this policy, regardless of the duration of the leave.
- 6.1.11 The College will use the rolling forward calculation method for calculating the calendar year and/or any twelve consecutive month period for eligibility of leave for all programs that do not specifically disallow such method.
- 6.1.12 Human Resources will maintain records showing the current leave status of each employee.

6.2 Annual Leave

- 6.2.1 Full-time non-classified employees and faculty with twelve-month appointments will be eligible for up to twenty-four (24) days leave per year accumulated at the rate of 2.00 days per month. However, when a non-classified employee's status changes to classified, or upon leaving the non-classified

position, the accumulation rates outlined in Section 6.2.2 will apply.

6.2.2 Employees occupying full-time classified positions will be eligible for annual leave on the following basis:

6.2.2.1 Less than five (5) years' service: 1.25 days per month;

6.2.2.2 Five (5) but less than ten (10) years' service: 1.50 days per month;

6.2.2.3 Ten (10) but less than fifteen (15) years' service: 1.75 days per month;

6.2.2.4 Fifteen (15) or more years' service: 2.00 days per month.

6.2.3 Classified and non-classified employees working at least 1,040 hours per fiscal year on a regular and continuing basis, but less than 1,950 hours will accumulate annual leave on a pro rata basis.

6.2.4 Accumulated annual leave for continuing employees may be extended beyond that earned during a period of one (1) year, but in no case will it exceed twice the amount earned in any twelve-month period.

6.2.5 An employee is entitled to accumulated annual leave at termination of service, but in no case may this exceed the limits set in 6.2.4 above.

6.3 Other Conditions for Annual Leave

6.3.1 At the request of the employee through established procedures, annual leave may be granted because of illness.

6.3.2 The work requirements of the institution will take priority over the scheduling of annual leave or other leave for an employee. When operationally possible, the supervisor will grant earned annual leave at the convenience of the employee. However, departmental needs must be met, and annual leave may not be taken without prior request and approval of the employee's supervisor.

6.3.3 In the event of an employee's death, the value of accumulated annual leave will be paid to the employee's estate.

6.4 Sick Leave

6.4.1 Full-time employees will accumulate sick leave at the rate of 1.50 days per month. All other employees will accumulate sick leave in accordance with Section 2.1 of this policy.

6.4.2 Sick leave may be accumulated without limit.

6.4.3 Sick leave may be used by the employee when ill or injured, or when in need of medical attention, or when death occurs in the immediate family.

6.4.4 An employee may use sick leave for a member of the immediate family who is ill, injured, or in need of medical attention.

6.4.5 Sick leave for more than five (5) consecutive days (one work week or more) will not be granted to an employee for illness without proof of illness or injury satisfactory to the institution. An employee having an extended illness or serious injury will, before returning to duty, obtain satisfactory medical clearance that will indicate the employee's ability to perform her/his duties. Such medical clearance will be presented in writing. Human Resources will develop procedures for requesting and

documenting sick leave.

- 6.4.6 When the condition of the employee is such that a return to work date cannot be reliably provided, or circumstances are such that incremental periods of medical leave are appropriate, a medical leave of absence *may* be granted for increments of thirty days. Continuation of the leave will require updated satisfactory medical evidence. Human Resources will establish procedures for medical leaves of absence for a period of more than ten (10) consecutive days.
- 6.4.7 In order to make sound and appropriate decisions regarding medical leaves of absence, employees must obtain beginning date, diagnosis, prognosis, and expected dates of return to work from a licensed treating physician. The College will follow all applicable laws in regard to medical leave under state or federal rules. Supervisors are not allowed access to medical specific information about employees. All employee medical information will be kept in strict confidentiality according to applicable privacy laws and regulations. Any employee who, through the course of performing their job, obtains knowledge of another employee's medical information is required to maintain strictest confidentiality. Medical information is to be forwarded to the Human Resources Office for appropriate record keeping.
- 6.4.8 In cases, except those involving catastrophic leave as defined in this policy, where all accumulated sick leave has been used and annual leave is available, it will be the option of an employee either to use any accumulated annual leave until it has also expired, rather than being removed from the payroll, or to retain the accumulated annual leave for use after return to work, but be taken off the payroll immediately after the accumulated sick leave has expired.
- 6.4.9 On-the-job injuries or occupational illnesses which involve no more than three (3) days of disability leave or absence from work will not be charged against the employee's accumulated sick leave as long as they are the next three (3) consecutive working days after injury or illness occurred. If on-the-job injuries or illnesses require a leave beyond the three-day period, it will be the option of the employee either to use earned and accumulated sick and annual leave until both may be exhausted or to reserve for future use any earned and accumulated sick and annual leave and receive only Workers' Compensation benefits for which adjudged eligible. Upon receipt of Worker's Compensation wage replacement payments, the employee who elected to use sick leave must pay the institution the amount of benefits received and have the value of the benefit calculated to an equal value of sick leave days for reinstatement.
- 6.4.10 Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom will be, for all job-related purposes, temporary disabilities and will be treated the same as any other illness or disability would be treated for sick leave entitlement. For this reason, employees will be entitled to sick leave for their disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth, the same criteria will be used as would be used in the case of another type of illness or disability.
- 6.4.11 Sick leave provisions are contingent upon continued employment. When the services of an employee have terminated, all sick leave credited to the employee will be considered cancelled as of the last working day with the institution, and no reimbursement will be provided for unused sick leave except in the event of retirement, in which case sick leave may be converted, under some circumstances, to insurance coverage, or for provisions lawfully provided for at that time. Employees who resign in good standing and are later re-employed may have their total accumulated sick leave reinstated, provided the date of termination is one (1) year or less from the date of re-employment. However, if the employee returns to work after more than one (1) year from the date of termination, no more than 30 days of accumulated sick leave may be reinstated.

6.5 Faculty Absences

- 6.5.1 A faculty member who must miss scheduled work time (class, office, committee, or other) for illness or other reasons, is required to complete a faculty absence form. Whenever possible, the faculty absence form is to be completed in advance of the absence.
- 6.5.2 For absences due to illness lasting or expecting to last two or more consecutive weeks, the full time faculty member must request a medical leave of absence pursuant to established medical leave procedures applicable for all employees.
 - 6.5.2.1 Before returning to work after a period of absence for two work weeks or more, the faculty member must obtain a "Return to Work Authorization/Medical Release" form from the treating physician.
- 6.5.3 Faculty members are strongly encouraged to enroll in disability coverage. Faculty employed after September 1999 are required to enroll in disability insurance as a condition of employment.
- 6.5.4 Faculty who miss work for thirty (30) consecutive calendar days will be removed from the payroll. At this time, wage replacement benefits from disability coverage should begin.

6.6 Medical Leave of Absence Without Pay

- 6.6.1 Any employee requesting a medical leave of absence without pay must provide the institutional President or the President's designee, through established procedures, with satisfactory medical evidence (as outlined in institutional procedures) that he/she is unable to work. The medical statement will include a diagnosis, prognosis, and expected date that the employee can return to work. If the evidence is satisfactory, the President or her/his designee may authorize a medical leave of absence without pay only for the period of disability specified by the attending physician. When the condition of the employee is such that a return to work date cannot be reliably provided, or circumstances are such that incremental periods of medical leave are appropriate, a medical leave of absence without pay *may* be granted for increments of thirty days. Continuation of the leave will require updated satisfactory medical evidence.
- 6.6.2 The employee will be expected to report to work on the first work day following expiration of the disability period. Failure of the employee to report promptly at the expiration of a medical leave of absence without pay, except for satisfactory reasons submitted in advance, will be cause for termination of employment by the institution. An employee, prior to return to duty, will obtain satisfactory medical clearance that indicates the employee's ability to perform her/his duties. Such medical clearance will be presented in writing.
- 6.6.3 A medical leave of absence without pay may be granted for no more than a twelve (12) consecutive month period. Employees who may need an extended medical leave beyond twelve (12) consecutive months may apply for an extension through institutional procedures or may consider other options, such as disability.
- 6.6.4 After an employee has taken a twelve-month medical leave, the institution will continue group health insurance coverage provided that the employee pays the institution the full premium cost of such group health plan.
- 6.6.5 Any employee who is separated from employment following a medical leave of absence of twelve (12) consecutive months and who had chosen to maintain her/his accumulated annual leave will receive payment for such accumulated annual leave in a lump sum payment.

6.7 Parental Leave

- 6.7.1 A full-time employee who has worked at least twelve (12) consecutive weeks for the state may request up to twelve (12) weeks unpaid parental leave.
- 6.7.2 The request for parental leave must be due to birth or adoption of a child by the employee or because of a planned medical treatment or care for the employee's spouse, son, daughter, parent, or dependent who has a serious health condition.
- 6.7.3 The employee must provide her/his supervisor and Human Resources with written notice two (2) weeks prior to the expected birth or adoption; or for the medical treatment; or for the supervision of a dependent. Failure to submit a written request may be cause for denial.
- 6.7.4 The employee must provide Human Resources with certification by the treating physician and/or documentation regarding dependency status.
- 6.7.5 All annual and sick leave must be exhausted before the parental leave begins. Parental/family leave may be taken intermittently, on a part time basis, providing the period during which the number of work weeks of leave may be taken may not exceed twelve consecutive rolling forward months, and such leave must be scheduled so as not to unduly disrupt the operations of the employer. No more than a total of twelve (12) weeks of parental leave may be taken in any twelve (12) consecutive rolling forward month period.
- 6.7.6 During the parental leave by an employee, the institution will continue group health insurance coverage provided that the employee pays the employer the full premium cost of such group health plan.
- 6.7.7 The position held by the employee immediately before the leave commences will be held for a period not to exceed the twelve-week period of the parental leave and the employee will be returned to that position. However, the institution may employ a temporary employee to fill the position for the period of the parental leave.

6.8 Family Medical Leave

- 6.8.1 The FMLA provides qualified employees the right to twelve (12) weeks of unpaid leave per year for certain specified events. Employees must be eligible under federal statute in order to qualify. The law entitles the employee to the same or equivalent job upon return from leave and protects employees from retaliation. Health insurance benefits will continue providing the employee continues to pay the employee portion of the premium.
- 6.8.2 The institution will comply with the provisions of the federal Family Medical Leave Act (FMLA) as amended.
- 6.8.3 Any leave approved and taken by an employee eligible under FMLA, will be designated as FMLA leave without separate notice from the employer. This means that the twelve week FMLA leave period will include unpaid (parental leave, leave of absence without pay, etc.) and/or paid leave (sick leave and annual leave) and/or other applicable leave programs.
- 6.8.4 Provisions of the federal Family Medical Leave Act can be found at <http://www.dol.gov/esa/whd/fmla/>.

6.9 Catastrophic Leave

- 6.9.1 A catastrophic illness is defined as: a medically verified illness or injury which is expected to incapacitate the employee and which creates a financial hardship because the employee has exhausted

all leave and other paid time off. Catastrophic illness or injury will also include an incapacitated immediate family member if this results in the employee being required to take time off from work to care for the family member and the employee has exhausted all leave and other paid time off.

- 6.9.2 The College will provide catastrophic leave under the direct transfer method. Sick or annual leave may be transferred to an eligible employee who has requested and been approved to receive leave donations due to a catastrophic illness or injury.
- 6.9.3 The President, along with Human Resources, will establish procedures for administering the Catastrophic Leave Program. Procedures will include requirements for the employee to obtain the appropriate medical and other verification that he/she is unable to work due to a catastrophic illness or injury.
- 6.9.4 A direct transfer program provides for sick and annual leave to be donated at the request of Human Resources on behalf of an employee who has been approved for catastrophic leave.
 - 6.9.4.1 Upon approval for an employee to receive direct transfer of catastrophic leave, any employee may, upon written notice to the Human Resources Department, donate sick and/or annual leave in one-day increments. No employee will be compelled to donate leave.
 - 6.9.4.2 The institution may limit the number of days donated by an employee who is in his/her terminal leave period or who resigns employment within 30 days of the donation.
 - 6.9.4.3 Any leave donated by an employee, but not used by the employee to whom it was donated, will be returned to the donating employee and reflected in her/his leave balance.
- 6.9.5 An employee receiving the transfer of leave will have any time which is donated credited to such employee's leave record in one-day increments and reflected as a day-for-day addition to the leave balance of the receiving employee. The leave record of the donating employee will have the donated leave reflected as a day-for-day reduction of the leave balance.
- 6.9.6 Use of donated credits may not exceed a maximum of twelve (12) continuous rolling forward calendar months for any one catastrophic illness or injury. The total amount of leave received by transfer may not exceed an amount sufficient to ensure the continuance of regular compensation and will not be used to extend insurance coverage pursuant to Section 13, Article 16, Chapter 5 of the Code, which relates to insurance coverage for state employees. The employee receiving donations of leave will use any leave personally accrued on a monthly basis prior to receiving additional donated leave.

6.10 Personal Leave of Absence Without Pay

- 6.10.1 An employee, upon application in writing and upon written approval by the President or her/his designee, may be granted a continuous leave of absence without pay for a period of time not to exceed twelve (12) consecutive months provided all accrued annual leave has been exhausted.
- 6.10.2 The President or the President's designee, at her/his discretion, may require the written approval of the supervisor before accepting the written application of an employee for a leave of absence without pay.
- 6.10.3 The President or the President's designee, at her/his discretion, will determine if the purpose for which such a leave is requested is proper and within sound administrative policy.
- 6.10.4 At the expiration of leave of absence without pay, the employee will be reinstated without loss of any rights, unless the position is no longer available due to a reduction in staff caused by curtailment of

funds or a reduced workload. Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, will be cause for termination of employment by the institution.

- 6.10.5 During a personal leave, the institution will continue group health insurance coverage provided that the employee pays the employer the full premium costs of such group health plan.

6.11 Military Leave

- 6.11.1 Job protection and benefit rights for employees participating in military services of the United States are provided under federal and state law.

- 6.11.2 An employee who is a member of the National Guard or any reserve component of the armed forces of the United States will be entitled to and will receive a leave of absence without loss of pay, status, or efficiency rating, for all days in which engaged in drills or parades ordered by proper authority, or for field training or active service for a maximum period of thirty (30) working days ordered or authorized under provisions of state law in any one (1) calendar year. The term "without loss of pay" will mean that the employee will continue to receive normal salary or compensation, notwithstanding the fact that such employee may receive other compensation from federal sources during the same period. Furthermore, such leave of absence will be considered as time worked in computing seniority, eligibility for salary increases, and experience with the institution. An employee will be required to submit an order or statement in writing from the appropriate military officer in support of the request for such military leave.

- 6.11.3 Benefits of this section will accrue to individuals ordered or called to active duty by the President of the United States for thirty (30) working days after they report for active service.

- 6.11.4 In addition to job protection and rights of reinstatement provided under the Uniformed Services Employment and Reemployment Rights Act (USERRA), the FMLA and the federal National Defense Authorization Act for 2010 provides a military family leave entitlement to eligible employees for certain qualifying exigencies and also a special military caregiver leave entitlement for an eligible employee to care for a covered service member.

- 6.11.5 Employees seeking leave for reasons related to military services for themselves or family members are to contact the Human Resources Office.

6.12 Special Emergency Leave With Pay

- 6.12.1 Special emergency leave with pay may be granted by the President or her/his designee to full-time employees in the event of extreme misfortune to the employee or the immediate family. The leave should be the minimum necessary, and in no case may it exceed five (5) days within any twelve (12) consecutive month period. Typical events which may qualify an employee for such leave are fire, flood, or other events (other than personal illness or injury or serious illness or death in the immediate family) of a nature requiring emergency attention by the employee.

6.13 Disaster Service Volunteer Leave

- 6.13.1 Any state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave with pay for not more than fifteen (15) work days in each year to participate in specialized disaster relief services for the American Red Cross.

- 6.13.2 Leave may be granted upon the written request of the American Red Cross for the services of the employee and approval by the supervisor, unit administrator, and the President or President's designee.

6.13.3 The Human Resources department is responsible for reporting disaster service volunteer leave statistics to the governor's office in compliance with West Virginia Code.

6.14 Witness and Jury Leave

6.14.1 Upon application in writing, an employee may be granted leave as indicated hereinafter in this section provided the employee is not a party to the action. Annual leave will not be charged under the provisions of this section.

6.14.2 When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness for the Federal Government, the State of West Virginia, or a political subdivision thereof, the employee will be entitled to leave with pay for such duty and for such period of required absence.

6.14.3 When attendance in a court is in connection with an employee's usual official duties, time required in going and returning will not be considered as absence from duty.

6.14.4 When an employee serves upon a jury, or is subpoenaed in litigation, the employee will be entitled to leave with pay for such duty and for such period of required absence.

6.14.5 The employee will report to work if he/she is excused by the court before the end of her/his regular work day. Provisions for employees who work a shift other than day shift will be made.

6.15 Managing Work Time in Areas Affected by Interruption to Utility Services or Similar Situations

6.15.1 Utility Service Interruptions - When extended power and utility service interruptions occur, administrators should make arrangements for employees' usual work routine to be accomplished at alternate work locations, or make affected employees available to other administrators for work in other areas. Also, if an administrator deems it advisable and the employee agrees, time off during the utility service interruption may be granted and charged against an employee's accumulated annual leave. Combinations of the above alternatives may be necessary, but in all cases interruptions of work schedules must be dealt with in accordance with applicable laws, including West Virginia Code 12-3-13. This law is interpreted to mean that if pay is associated with the absence from work, the absence must be charged to accumulated annual leave.

6.15.2 Emergency Situations - In the event that an emergency exists, the President or her/his designee, in conjunction with local or state public safety officials, has the authority to comply with the emergency situation and close the institution. Such a declaration will be transmitted to the Chancellor of the Council for Community and Technical College Education. The President, working with public safety officials, will determine when the emergency condition no longer exists. Should an employee be required to work by the President or her/his designee during a declared emergency, the time worked will be compensated according to the provisions of the West Virginia Council for Community and Technical College Education, Title 133, Procedural Rule Series 8, "Personnel Administration." Work time lost by any employee during a declared emergency will be considered regular work time for pay purposes and will not require that the time be charged to annual leave nor will there be a requirement that the time be made up.

6.15.3 Absences from work due to weather conditions other than during a declared emergency must be charged against accumulated annual leave, accumulated compensatory time, or the employee must be removed from the payroll for the time in question. Sick leave may not be charged for absence due to weather. Time lost from work may be made up in the same work week at the discretion of the employee's supervisor.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

7.1 Employee:

- 7.1.1 All employees of the College are responsible for knowing the terms and requirements of this policy and subsequent procedures related thereto. The employee must complete time report forms, leave request forms, and submit supporting documentation to his/her supervisor for approval. Whenever possible, all requests for leave are to be submitted for approval in advance.
- 7.1.2 To ensure privacy of personal medical information, employees must send medical records supporting requests for leave directly to Human Resources, rather than to his/her supervisor.
- 7.1.3 Employees are encouraged to seek advice and clarification from the Human Resources Office regarding specific criteria and interpretation of state and federal rules governing leave programs provided by the College.

7.2 Supervisor:

- 7.2.1 All supervisor's are responsible for consistent application of this policy and any subsequent procedures related thereto. Supervisors are responsible for monitoring employee absences and ensuring the appropriate time reports, requests for leave, and supporting documentation forms are completed in a timely manner for employees reporting to them. To ensure employee privacy, federal law prohibits supervisors from having access to personal medical information and from contacting an employee's health care providers.
- 7.2.2 Supervisor must forward all completed time records, leave requests and supporting forms to the Human Resources Office immediately upon receipt from the employee.

7.3 Human Resources:

- 7.3.1 The Director of Human Resources is responsible for developing procedures and making all forms pertaining to leave available to employees of the College.
- 7.3.2 The Director of Human Resources or his/her designee will review incoming leave request(s) for completion and calculate remainder of leave balances (where applicable).
- 7.3.3 The Director of Human Resources will review pending requests for leave for compliance with applicable rules and make recommendation to the President or President's designee for approval or denial of leave. In accordance with federal law, only specific employer representatives may contact an employee's health care provider. For the College, the specified representative is the Director of Human Resources or his/her designee in Human Resources.
- 7.3.4 After final decision of the President or President's designee, Human Resources will communicate approval/denial of leave request(s) to the employee and supervisor. The affected employee will be provided appropriate insurance/disability claim forms and notified regarding continuation of benefits, insurance premiums, premium due dates, pending expiration of leave balances, potential/pending disability claims, and other issues as necessary.
- 7.3.5 Human Resources will monitor the approved employee leave period to ensure continued compliance, appropriate benefit administration, and return to work provisions are met. Human Resources will provide advice and assistance to the employee and supervisor during the approved absence period.

SECTION 8. CANCELLATION

- 8.1 The following policies are rescinded and will become institutional procedures:

- 8.1.1 SCP-2484, *Medical Leave of Absence*, and associated forms: SCP-2484.A, *Request for Medical Leave*; SCP-2484.B, *Medical Leave Verification*; and SCP-2484.C, *Return to Work Authorization*.
- 8.1.2 SCP-2406, *Illness of Faculty Member, Responsibilities for Meeting Affected Classes, and Request for Leave Due to Illness*, and the associated form SCP-2406.A, *Faculty Absence Request/Report Form*.
- 8.1.3 SCP-2005, *Catastrophic Leave*, and the associated forms: SCP-2005.A, *Catastrophic Leave Request*, and SCP-2005.B, *Catastrophic Leave Donation Form*.

SECTION 9. REVIEW STATEMENT

- 9.1 This policy will be reviewed on a regular basis with a time frame for review to be determined by the President or the President’s designee. Upon such review, the President or President’s designee may recommend to the Board that the policy be amended or repealed.

SECTION 10. SIGNATURES

Board of Governors Chair	Date
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President	Date
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Attachments: None.

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Notes: This policy was newly created in November 2009.

**Certification of Health Care Provider for
Employee's Serious Health Condition
under the Family and Medical Leave Act**

**U.S. Department of Labor
Wage and Hour Division**



**DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR.
RETURN TO THE PATIENT.**

OMB Control Number: 1235-0003
Expires: 6/30/2023

The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. 29 U.S.C. §§ 2613, 2614(c)(3); 29 C.F.R. § 825.305. The employer must give the employee **at least 15 calendar days** to provide the certification. If the employee fails to provide complete and sufficient medical certification, his or her FMLA leave request may be denied. 29 C.F.R. § 825.313. Information about the FMLA may be found [on the WHD website at www.dol.gov/agencies/whd/fmla](http://www.dol.gov/agencies/whd/fmla).

SECTION I – EMPLOYER

Either the employee or the employer may complete Section I. While use of this form is optional, this form asks the health care provider for the information necessary for a complete and sufficient medical certification, which is set out at 29 C.F.R. § 825.306. **You may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308.** Additionally, you **may not** request a certification for FMLA leave to bond with a healthy newborn child or a child placed for adoption or foster care.

Employers must generally maintain records and documents relating to medical information, medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

(1) Employee name: _____
First Middle Last

(2) Employer name: Southern WV Community & Technical College Date: _____ (mm/dd/yyyy)
(List date certification requested)

(3) The medical certification must be returned by _____ (mm/dd/yyyy)
(Must allow at least 15 calendar days from the date requested, unless it is not feasible despite the employee's diligent, good faith efforts.)

(4) Employee's job title: _____ Job description (is / is not) attached.
Employee's regular work schedule: _____
Statement of the employee's essential job functions: _____

(The essential functions of the employee's position are determined with reference to the position the employee held at the time the employee notified the employer of the need for leave or the leave started, whichever is earlier.)

SECTION II - HEALTH CARE PROVIDER

Please provide your contact information, complete all relevant parts of this Section, and sign the form. Your patient has requested leave under the FMLA. The FMLA allows an employer to require that the employee submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to the serious health condition of the employee. For FMLA purposes, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves *inpatient care or continuing treatment by a health care provider*. For more information about the definitions of a serious health condition under the FMLA, see the chart on page 4.

You may, but are **not required** to, provide other appropriate medical facts including symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment. Please note that some state or local laws may not allow disclosure of private medical information about the patient's serious health condition, such as providing the diagnosis and/or course of treatment.

Employee Name: _____

Health Care Provider's name: (Print) _____

Health Care Provider's business address: _____

Type of practice / Medical specialty: _____

Telephone: () _____ Fax: () _____ E-mail: _____

PART A: Medical Information

Limit your response to the medical condition(s) for which the employee is seeking FMLA leave. Your answers should be your **best estimate** based upon your medical knowledge, experience, and examination of the patient. **After completing Part A, complete Part B to provide information about the amount of leave needed.** Note: For FMLA purposes, "incapacity" means the inability to work, attend school, or perform regular daily activities due to the condition, treatment of the condition, or recovery from the condition. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b).

(1) State the approximate date the condition started or will start: _____ (mm/dd/yyyy)

(2) Provide your **best estimate** of how long the condition lasted or will last: _____

(3) Check the box(es) for the questions below, as applicable. For all box(es) checked, the amount of leave needed must be provided in Part B.

Inpatient Care: The patient (has been / is expected to be) admitted for an overnight stay in a hospital, hospice, or residential medical care facility on the following date(s): _____

Incapacity plus Treatment: (e.g. outpatient surgery, strep throat)
Due to the condition, the patient (has been / is expected to be) incapacitated for *more than three* consecutive, full calendar days from _____ (mm/dd/yyyy) to _____ (mm/dd/yyyy).

The patient (was / will be) seen on the following date(s): _____

The condition (has / has not) also resulted in a course of continuing treatment under the supervision of a health care provider (e.g. prescription medication (other than over-the-counter) or therapy requiring special equipment)

Pregnancy: The condition is pregnancy. List the expected delivery date: _____ (mm/dd/yyyy).

Chronic Conditions: (e.g. asthma, migraine headaches) Due to the condition, it is medically necessary for the patient to have treatment visits at least twice per year.

Permanent or Long Term Conditions: (e.g. Alzheimer's, terminal stages of cancer) Due to the condition, incapacity is permanent or long term and requires the continuing supervision of a health care provider (even if active treatment is not being provided).

Conditions requiring Multiple Treatments: (e.g. chemotherapy treatments, restorative surgery) Due to the condition, it is medically necessary for the patient to receive multiple treatments.

None of the above: If none of the above condition(s) were checked, (i.e., inpatient care, pregnancy) no additional information is needed. Go to page 4 to sign and date the form.

Employee Name: _____

- (4) If needed, briefly describe other appropriate medical facts related to the condition(s) for which the employee seeks FMLA leave. (e.g., use of nebulizer, dialysis) _____

PART B: Amount of Leave Needed

For the medical condition(s) checked in Part A, complete all that apply. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your **best estimate** based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage.

- (5) Due to the condition, the patient (had / will have) **planned medical treatment(s)** (scheduled medical visits) (e.g. psychotherapy, prenatal appointments) on the following date(s): _____

- (6) Due to the condition, the patient (was / will be) **referred to other health care provider(s)** for evaluation or treatment(s).

State the nature of such treatments: (e.g. cardiologist, physical therapy) _____

Provide your **best estimate** of the beginning date _____ (mm/dd/yyyy) and end date _____ (mm/dd/yyyy) for the treatment(s).

Provide your **best estimate** of the duration of the treatment(s), including any period(s) of recovery (e.g. 3 days/week) _____

- (7) Due to the condition, it is medically necessary for the employee to work a **reduced schedule**.

Provide your **best estimate** of the reduced schedule the employee is able to work. From _____ (mm/dd/yyyy) to _____ (mm/dd/yyyy) the employee is able to work: (e.g., 5 hours/day, up to 25 hours a week)

- (8) Due to the condition, the patient (was / will be) **incapacitated for a continuous period of time**, including any time for treatment(s) and/or recovery.

Provide your **best estimate** of the beginning date _____ (mm/dd/yyyy) and end date _____ (mm/dd/yyyy) for the period of incapacity.

- (9) Due to the condition, it (was / is / will be) medically necessary for the employee to be absent from work on an **intermittent basis** (periodically), including for any episodes of incapacity i.e., episodic flare-ups. Provide your **best estimate** of how often (frequency) and how long (duration) the episodes of incapacity will likely last.

Over the next 6 months, episodes of incapacity are estimated to occur _____ times per (day / week / month) and are likely to last approximately _____ (hours / days) per episode.

Employee Name: _____

PART C: Essential Job Functions

If provided, the information in Section I question #4 may be used to answer this question. If the employer fails to provide a statement of the employee’s essential functions or a job description, answer these questions based upon the employee’s own description of the essential job functions. An employee who must be absent from work to receive medical treatment(s), such as scheduled medical visits, for a serious health condition is considered to be *not able* to perform the essential job functions of the position during the absence for treatment(s).

(10) Due to the condition, the employee (was not able / is not able / will not be able) to perform *one or more* of the essential job function(s). Identify at least one essential job function the employee is not able to perform:

Signature of Health Care Provider _____ Date _____ (mm/dd/yyyy)

Definitions of a Serious Health Condition (See 29 C.F.R. §§ 825.113-.115)
Inpatient Care
<ul style="list-style-type: none">• An overnight stay in a hospital, hospice, or residential medical care facility.• Inpatient care includes any period of incapacity or any subsequent treatment in connection with the overnight stay.
Continuing Treatment by a Health Care Provider (any one or more of the following)
Incapacity Plus Treatment: A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves either: <ul style="list-style-type: none">○ Two or more in-person visits to a health care provider for treatment within 30 days of the first day of incapacity unless extenuating circumstances exist. The first visit must be within seven days of the first day of incapacity; or,○ At least one in-person visit to a health care provider for treatment within seven days of the first day of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider. For example, the health provider might prescribe a course of prescription medication or therapy requiring special equipment.
Pregnancy: Any period of incapacity due to pregnancy or for prenatal care.
Chronic Conditions: Any period of incapacity due to or treatment for a chronic serious health condition, such as diabetes, asthma, migraine headaches. A chronic serious health condition is one which requires visits to a health care provider (or nurse supervised by the provider) at least twice a year and recurs over an extended period of time. A chronic condition may cause episodic rather than a continuing period of incapacity.
Permanent or Long-term Conditions: A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, but which requires the continuing supervision of a health care provider, such as Alzheimer’s disease or the terminal stages of cancer.
Conditions Requiring Multiple Treatments: Restorative surgery after an accident or other injury; or, a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days if the patient did not receive the treatment.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

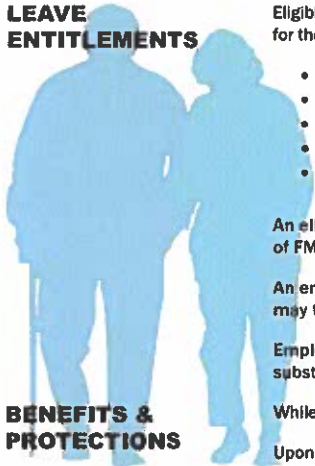
If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 15 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR. RETURN TO THE PATIENT.

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

BENEFITS & PROTECTIONS

ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

*Special "hours of service" requirements apply to airline flight crew employees.

REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

EMPLOYER RESPONSIBILITIES

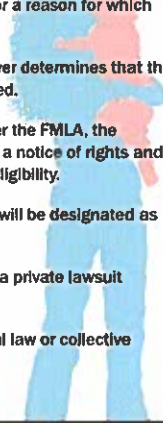
Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division



