



New York Medical College Policy and Procedure Manual

Section: HUMAN RESOURCES	No.: HR.605
	Date: April 18, 2008
Subject: FAMILY LEAVE	Page 1 of 10
	Supersedes: 07/13/05

I. Purpose

To establish guidelines for family leave benefit for eligible employees.

II. Scope

This policy applies to all College full-time faculty and staff and part-time faculty and staff with at least one (1) year of service and working twenty-four (24) or more hours weekly during the year preceding the start of the leave.

III. Definition

A. Family leave - absence from work extended for the following reasons:

1. The birth of a child of the employee and to care for such child.
2. The placement of a child with the employee for adoption or foster care.
3. The care of a family member of the employee with a serious health condition.
4. A serious health condition of the employee which renders the employee unable to perform the functions of his/her position. See provisions of Policy **HR.307 - Short-Term Disability** .
5. Military Family leave: 12 weeks leave when an employee or family member is on active duty or has been notified of impending active duty; or when an eligible employee's family member is recovering from a serious injury or illness sustained while on active duty (26 weeks leave in a single 12-month period).

B. Family member - is a member of the immediate family including spouse, children, or parent.

Issued By:	Approved By:
-------------------	---------------------

Subject: FAMILY LEAVE	No.: HR.605
	Page 2 of 11

- C. Child(ren) - includes biological, adopted, and foster child, as well as step-child, legal ward or a "child" of a person acting in the capacity of a parent provided the child is under 18 years of age or over 18 years of age but unable to care for themselves because of a disability.
- D. Parent - includes biological parents as well as a person that acted in the capacity of a parent towards the employee.
- E. Spouse - in accordance with state law.
- F. Serious Health Conditions -
 - 1. That which renders the employee unable to perform the functions of his/her job.
 - 2. A mental or physical illness, injury, or impairment which involves inpatient care at a medical care facility or continuing treatment by a health care provider.
- G. Equivalent Position - one that has the same employment benefits, pay, working conditions, same or substantially similar duties and responsibilities and must entail substantially equivalent skill, effort, responsibility and authority.
- H. Intermittent leave - non-consecutive full days.
- I. Reduced leave - partial days - consecutive or non-consecutive (e.g. working half days).

IV. Policy

It is the policy of New York Medical College to grant Family Leave to eligible employees under the circumstances itemized above and in compliance with the Family and Medical Leave Act (FMLA) of 1993.

V. Procedure

- A. Leave Provisions

<i>Subject: FAMILY LEAVE</i>	<i>No.: HR.605</i>
	<i>Page 3 of 11</i>

1. Family Leave may be taken intermittently or for a continuous period of time not to exceed twelve (12) full weeks within a twelve (12) month period measured forward from the first day of the last period of family leave.
2. Eligible part-time employees may be granted benefits in proration to the total hours normally scheduled and worked.
3. Leave periods may be paid or unpaid.
 - a. In the case where the New York Medical College employee has a serious health condition, see **Policy HR.307 - Short Term Disability**.
 - b. In the case of care for an immediate family member or placement of a child with the employee for adoption or foster care, accrued vacation and/or personal time must be used to the extent available, before going on unpaid status.
4. Family Leave taken for a birth or placement for adoption or foster care must be concluded by the end of the twelve (12) month period beginning on the date of birth or placement.
5. An employee with more than one (1) qualifying event (e.g. adoption and care of a parent) within a twelve (12) month period is not entitled to a separate twelve (12) week period of leave for each event.
6. Employees will be permitted to take an intermittent leave or reduced leave if they have a serious health condition or are caring for a covered relation with a serious health condition, provided intermittent or reduced leave is medically necessary. Intermittent leave will also be available for the birth or placement of a child.
7. Time taken off for part of a work day (e.g. 4 hours) on reduced leave does not count as an entire day of leave, but only as leave for the actual time taken (e.g. 4 hours). Thus, an employee who regularly works seven (7) hours/day and takes

Subject: FAMILY LEAVE	No.: HR.605
	Page 4 of 11

reduced leave at three and one-half (3.5) hours/day can be on reduced leave for twenty-four (24) weeks.

B. Continuation of Benefits

1. The College or the Union will continue to provide employee benefits during any periods of leave permitted by this policy on the same basis as if the employee had continued in active employment during the leave. Employees must continue to pay all required employee contributions for all elected benefits or continue to pay union dues on a bi-weekly or monthly basis. These payments can be sent directly to Human Resources while the employee is on Family Medical Leave. If the employee does not submit payments for College benefits, then the total amount of employee contributions will go into the arrears automatically through the payroll system and then upon the employee's return from FML, the total amount will be withheld from the employee's check until the balance is paid in full.

C. Restoration and Highly Compensated Employee Exception

1. An employee who takes leave shall be entitled to be reinstated to the position held when the leave commenced or to an equivalent position.
2. Exception - an employee who is among the highest paid 10% of employees need not be restored to their former or comparable position, provided:
 - a. The denial is necessary to prevent substantial and grievous economic injury to the College,
 - b. The College notifies the employee of its intent to deny restoration at the time the College determines such substantial and grievous injury would occur, and
 - c. In any case in which the leave has commenced, the employee elects not to return after receiving such notice.

Subject: FAMILY LEAVE	No.: HR.605
	Page 5 of 11

- D. Limitation on Leave Taken by Spouses Who are Both Employed by the College
1. Spouses who are both employed by the College are entitled to an aggregate total of twelve (12) weeks leave:
 - a. For a birth, or placement for adoption or foster care.
- E. Medical Certification for Leave
1. The College requires that a request for leave, because of a serious health condition of either the employee or qualified family member, be accompanied by a medical certification of the condition - see **Family And Medical Leave Act Certification (HR-56)** form attached.
 2. The certification form includes:
 - a. The date on which the serious health condition began.
 - b. The probable duration of the condition.
 - c. The appropriate medical facts within the knowledge of the health care provider regarding the condition, and:
 - d. Where applicable, a statement that the employee is needed to care for a covered relation and the amount of time needed to care for said person.
 3. Intermittent or reduced leave certifications should state:
 - a. The dates on which treatment is expected to be given and the duration of such treatment.

<i>Subject: FAMILY LEAVE</i>	<i>No.: HR.605</i>
	<i>Page 6 of 11</i>

- b. A statement of the medical necessity for the intermittent or reduced leave schedule and the expected duration, and:
- c. Where applicable, a statement that intermittent or reduced leave schedule is necessary to care for a covered relation or will assist in recovery and the expected duration and schedule of the leave.
- d. The College may challenge the certification provided by an employee where it has "reasonable doubt" as to its validity. In such cases, the College will require, at its expense, that the employee obtain the opinion of a second health care provider approved by the College.
 - 1). If the College's health care professional corroborates the opinion of the employee's health care provider, the leave shall be granted.
 - 2). If the opinion of the employee's and College's health care providers differ, a third mutually agreeable health care provider shall be selected, at the College's expense. The third opinion is binding.

4. Periodic Updates by Employee on Family Leave

- a. The College requires that employees on Family Leave communicate to their Supervisor at least every two (2) weeks regarding their status and must give the Supervisor at least two (2) weeks notice of their expected date of return to work.
- b. The College may require recertification of a medical condition. The employee will be told in advance of leaving for Family Leave that this recertification may be necessary and will be given fifteen (15) days advance notice to resubmit the updated **Family And Medical Leave Act Certification (HR-56)** form.

<i>Subject: FAMILY LEAVE</i>	<i>No.: HR.605</i>
	<i>Page 7 of 11</i>

F. Prohibited Acts

1. It is unlawful for the College to:
 - a. Interfere with the exercise of any right under the Family and Medical Leave Act.
 - b. Discharge or discriminate against any person for opposing any practice made unlawful under the Act and:
 - c. Retaliate against employees because they filed a complaint, gave information or testified in relation to a complaint.

G. Recordkeeping Requirements

1. The Human Resources Department will keep records pertaining to the College's compliance with the act.

H. Posting

1. The College will post, in conspicuous places, the Department of Labor's notice of employee rights under the Family and Medical Leave Act.

I. Procedure for Applying for Family Leave

1. Employee must give written notice to their Supervisor as soon as possible and practical.
 - a. Thirty (30) days advance notice is required for foreseeable leaves.
 - b. Emergency leaves must be communicated to the employee's Supervisor as soon as possible. Notice should be given within one (1) to two (2) working days of learning of the need for the emergency leave except in extraordinary cases. Written notice should be provided as soon as possible.

Subject: FAMILY LEAVE	No.: HR.605
	Page 8 of 11

2. Extended leave

- a. The department Administrator must complete a **Personnel Action Form (PAF-HR 101)** placing the employee on a leave of absence, indicating the leave date and the estimated return date. **In the "Action Reason" and "Remarks" section of the PAF, it must be indicated that this is a FMLA leave (Family and Medical Leave Act leave). During the FML, the employee's vacation balance is charged during the leave, thus the leave is designated as paid leave, even though there is no pay once the vacation hours are exhausted.**

3. Intermittent leave

- a. A **Personnel Action Form (HR-101)** form need not be generated but the leave time must be indicated on the **Payroll Timesheet (PR-1)** as detailed in section V.I.4. below as FML.

4. Timesheet Recording

- a. All hours, whether paid or unpaid, must be indicated on the **Payroll Timesheet (PR-1)** as FMLA hours. See **Policy CO.501 - Timesheet Reporting ("A" code in Valhalla and "FML" code at Metropolitan Hospital)**. Employees must use accrued vacation during FML.

J. Denial or Discontinuance of Benefits

- 1. Benefits normally available to a faculty or staff member may be discontinued if the employee:
 - a. Refuses to submit medical evidence or other information as requested by the College.

Subject: FAMILY LEAVE	No.: HR.605
	Page 9 of 11

- b. Is absent from work without approval.
 - c. Becomes employed elsewhere or engages in another business or any compensated professional activities while on Family Leave.
 - d. Misrepresented the reason for the leave.
2. Employees will be terminated from the active roster if they fail to return to work immediately after the leave period has ended unless there has been prior approval given by the Department Head.

K. Replacement of Employees while on Extended Family Leave

1. Positions vacated by an employee on Family Leave may be filled on a temporary basis.
2. The employee on Family Leave will be notified of the decision to hire a temporary employee during the leave period.
3. The employee on Family Leave must notify the Department Administrator at least ten (10) business days prior to his/her expected date of return to work.
4. Upon return to work, an employee will be reinstated to his/her vacated position or an equivalent position.

VI. Responsibility

A. Employees

1. Notify the Supervisor in a timely manner of need to apply for leave qualifying under the Family and Medical Leave Act.
2. Provide the Supervisor with required documentation in a timely manner as defined above.

<i>Subject: FAMILY LEAVE</i>	<i>No.: HR.605</i>
	<i>Page 10 of 11</i>

3. Contact the Human Resources Department to determine employee contributions needed for continuation of benefits during leave or the amount of union dues that need to be paid by the employee and submitted to Human Resources for submission to the union.

Comply with all the requirements noted above, especially in completing and submitting FML application and physician certification and in submitting benefit contribution or union dues payment to Human Resources in order to continue medical benefits.

B. Supervisor

1. Review leave requests and approve or deny in accordance with the FMLA regulations.
2. Advise employees of rights under FMLA.

C. Administrator

1. Prepare a **Personnel Action Form (HR-101)** form and obtain approvals prior to the employee going on leave qualifying under FMLA.
2. Prepare a **Personnel Action Form (HR-101)** form when the employee returns from leave.
3. Indicate time taken as FMLA leave on the bi-weekly **Payroll Timesheets (PR-1)** – (FML codes will automatically charge vacation balance while on FML and then the remaining FML time is unpaid.)

D. Human Resources Department

1. Maintain FMLA employee requests and Medical Certifications in a separate employee file.
2. Provide advice and guidance with respect to the interpretation and

<i>Subject: FAMILY LEAVE</i>	<i>No.: HR.605</i>
	<i>Page 11 of 11</i>

administration of this policy. Advise employee of the amount to be paid by the employee while on FML for College benefits or union dues.

3. Contact Administrators to prepare a PAF form if that is not submitted with the employee FML application.