

CCS Administrative Procedure

2.40.01 – A Family Medical Leave and Return to Work

Implementing Board Policy [2.40.01](#)
Contact: Human Resources

1.0 Leave Administration Objective and Responsibilities (summary of Board of Trustees Policy 2.40.01)

Community Colleges of Spokane (CCS) will provide and administer a program for employee leaves of absence in a manner that will both serve the well-being of faculty and staff and the organization.

- 1.1 The [Family and Medical Leave Act of 1993](#) (FMLA) allows an eligible employee up to twelve weeks of unpaid employment protection leave in a twelve-month period for a qualifying reason(s). In addition to the leave provided under the FMLA as outlined below, an employee may also be entitled to other leave under state law, CCS policies or applicable collective bargaining agreements. This policy applies to all eligible employees of CCS.
 - 1.1.1 The Family Care Act (FCA; Washington Administrative Code [\(WAC\) 296-130](#)) is a Washington state leave law which also provides employment protection leave and requires use of the employee's accrued paid leave in order to care for the employee's qualifying family member. The FCA does not have a leave use limit as long as the employee has accrued paid leave balances to maintain FCA status.
- 1.2 The Chief Strategy and Administration Officer is responsible for ensuring leave is administered in good faith and consistent with the rights and responsibilities provided by statute, specifically the FMLA, [WAC 296-130](#) and [WAC 357-31](#), and for providing information and training specific to these rights and responsibilities.
- 1.3 Supervisors are responsible for managing their staff's leaves and keeping both the employee and the Human Resources Office (HRO) informed of changes in the employee's work status. Additionally, supervisors are responsible for ensuring that no employee returns to work without first confirming with the HRO that appropriate medical release is on file.
- 1.4 Employees are responsible for initiating medical leave requests, providing the information necessary for CCS to effectively administrate leave programs according to this procedure and reporting leave usage.
- 1.5 Nothing herein modifies the terms of an applicable collective bargaining agreement.

2.0 Definitions

The following definitions are specific to the terms of this procedure and do not modify or revise similar terms as used in related procedures or collective bargaining agreements.

- 2.1 Child: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under eighteen years of age or eighteen years of age or older and incapable of self-care because of a mental or physical disability.
- 2.2 Family member:
 - 2.2.1 Defined by FMLA as child(ren), spouse, parents but not grandparents, parent-in-law, son-in-law or daughter-in-law.

- 2.2.2 Defined by FCA as children, parents, spouse, registered domestic partner, parents-in-law, and grandparents.
- 2.3 Health care provider:
 - 2.3.1 Doctor of medicine or osteopathy (M.D. or D.O.) authorized to practice medicine or surgery by the state in which the doctor practices.
 - 2.3.2 Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice and performing within the scope of their practice, under state law.
 - 2.3.3 Nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law.
 - 2.3.4 Any health care provider recognized by the employer or the employer's group health plan.
- 2.4 Next of kin: As defined by the Department of Labor. Applies only to Service Member Family Leave in 3.1.6 below.
- 2.5 Parent/grandparent: The biological parent/grandparent or an individual who stands or stood *in loco parentis* to an employee or employee's spouse when the employee/spouse was a child.
 - 2.5.1 Parent-in-law: A biological parent or individual who stands or stood *in loco parentis* to an employee's spouse when the spouse was child.
 - 2.5.1.1 Qualifying family member under FCA, but not under FMLA.
 - 2.5.2 In loco parentis: Someone with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- 2.6 Rolling year: A period of twelve calendar months beginning with the qualifying event.
- 2.7 Serious health condition: An illness, injury, impairment, or physical or mental condition that involves either:
 - 2.7.1 Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
 - 2.7.2 Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
 - 2.7.2.1 A health condition (including treatment or recovery) lasting more than three consecutive workdays, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
 - 2.7.2.1.1 Two or more treatments by or under the supervision of a health care provider; or

- 2.7.2.1.2 One treatment by a health care provider with a continuing regimen of treatment.
 - 2.7.2.2 Any period of incapacity due to pregnancy, prenatal care, or pregnancy-related conditions. A visit to the health care provider is not necessary for each absence.
 - 2.8.2.2 A chronic serious health condition which continues over an extended period, requiring periodic visits to a health care provider, and may involve occasional episodes of incapacity e.g., asthma, diabetes, etc.
 - 2.8.2.3 A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment.
 - 2.8.2.4 Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three consecutive workdays if not treated (e.g., chemotherapy or radiation treatments for cancer).
- 2.8 Spouse: An individual as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized.

3.0 General Provisions

- 3.1 CCS will grant up to twelve weeks of leave during a rolling year, beginning with the qualifying event, or 26 workweeks for 3.1.6 below to eligible employees for one or more of the following reasons:
- 3.1.1 The birth and care of a newborn child;
 - 3.1.2 The placement and care of an adopted child or foster child with the eligible employee;
 - 3.1.3 To care for an employee's family member with a serious health condition;
 - 3.1.4 The employee's own serious health condition;
 - 3.1.5 Because of any qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation; or
 - 3.1.6 To care for a covered service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- 3.2 Entitlement to FMLA leave for the care of a newborn child or newly adopted or foster child ends twelve months from the date of the birth or the placement respectively.

4.0 Eligibility

- 4.1 An eligible employee must meet both of the following conditions:
- 4.1.1 The employee must have been employed by CCS or another Washington state agency or institution of higher education for at least twelve months, need not be consecutive, prior to the commencement of the leave; and

- 4.1.2 The employee must have worked for at least 1,250 hours of service in the twelve-month period immediately preceding the commencement of the leave.
 - 4.1.2.1 The 1,250 hours requirement does not count used paid time off (i.e., annual leave, sick leave, personal holiday, compensatory time, or shared leave). The 1,250 hours worked rule can otherwise be described as “in the seat time”.

5.0 Leave Coverage and Twelve-Month Period

- 5.1 Measuring the Twelve-Month Period: An eligible employee can take up to twelve workweeks of FMLA leave during a twelve-month rolling year period (beginning with the qualifying event and ending twelve months later).
- 5.2 Measuring the 26-Workweek Period: An eligible employee can take up to 26 workweeks of FMLA Service Member Family leave during a twelve-month rolling year period (beginning with the qualifying event and ending twelve months later). During the single twelve-month period during which Servicemember Family Leave is taken, the employee may only take a combined total of 26 workweeks of leave for Service Member Family Leave and leave taken for other FMLA qualifying reasons. The employee will need to submit appropriate official documentation issued by the Armed Forces to support the need for the leave.
- 5.3 Both Spouses Employed by CCS: If both spouses work for CCS, they may only take a combined total of twelve workweeks or 26 workweeks for 3.1.6 above of FMLA leave in the twelve-month period for the purpose of the birth and care of a newborn child, adoption of a child, or placement of a child in foster care, or to care for the employee’s parent with a serious health condition.
- 5.4 Accounting for Leave: Use of leave will be applied on an hourly, pro rata basis and will be determined based on the employee’s status at the time of the request for leave.
- 5.5 Additional Leave for Disability Related to Pregnancy and Child Care: Washington state law, [RCW 50A.15.110](#) states:

“(1) Leave under this title and leave under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017) is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth.

(2) Unless otherwise expressly permitted by the employer, leave taken under this title must be taken concurrently with any leave taken under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017).

If a prospective parent experiences a disabling condition relating to pregnancy or childbirth, they are entitled to an additional twelve weeks of leave under this RCW. However, leave used for pregnancy-related illness would impact the balance available and could make FMLA unavailable until the next FMLA year.

6.0 Employee Request for Leave and Employer Designation

- 6.1 It is the employee’s responsibility to notify their supervisor per the department’s regular call-in procedures of the need for leave. The supervisor, after having been informed of the need, should direct the employee to contact HRO for the official notification paperwork, which consists of the Application for Family or Personal Medical Leave and the medical certification form.

- 6.1.1 If the need for leave is foreseeable, the employee should notify their supervisor at least thirty days in advance of the need for leave. If the need for leave is not foreseeable, notice must be given as soon as possible.
- 6.1.2 The Application for Family or Personal Medical Leave is completed by the employee and must be signed by both the employee and the supervisor or supervisor's designee. The signed form is then routed to the leave administrator in the HRO.
- 6.2 If an employee's or family member's health care provider needs to complete a medical certification form, the certification form needs to be provided by the employee to the health care provider. The health care provider needs to return the completed form within fifteen calendar days from the receipt of the form. **The medical certification must be returned to the HRO, not to the supervisor.** If the medical certification is not returned, the leave may be denied due to lack of verifiable information.
 - 6.2.1 It is the employee's responsibility to ensure the medical certification is returned to the HRO.
 - 6.2.2 Due to employee and patient privacy laws, the medical certification and all other related medical information, must be returned directly to and maintained in the HRO.
 - 6.2.3 Once an FMLA request has been made, CCS will determine eligibility and notify the employee of either:
 - 6.2.3.1 Approval of leave and whether the leave will be designated as FMLA, or
 - 6.2.3.2 Denial of leave and the reason for the denial.

The employee will be notified of the above determination either orally or in writing. If given orally, the determination will be followed up in writing, within five business days, absent extenuating circumstances. If the employee does not provide enough information to determine if the leave qualifies for FMLA, the leave administrator will require and request additional information.

7.0 Intermittent Leave

- 7.1 CCS seeks to accommodate employees with a need for leave while also keeping them productive and orientated to the workplace. As related to FMLA, CCS encourages employees and supervisors to explore the possibility of the following temporary options before granting, or extending, a full-time FMLA leave request:
 - 7.1.1 An intermittent or flexible schedule (i.e., day on, day off; adjusted work hours).
 - 7.1.2 A reduced hours schedule (i.e., fewer days or hours per week).
- 7.2 Intermittent leave arrangements must serve the mutual convenience of CCS and the employee. Should such arrangement no longer serve the mutual convenience of either party it will be terminated with reasonable notice and a new leave arrangement will be determined.
- 7.3 If the need for FMLA is due to the employee's own serious health condition or to care for a family member with a serious health condition, a medical certification must be completed even if a leave on an intermittent basis or leave on a reduced schedule is being requested. The medical certification may need to be re-certified periodically to establish on-going need, re-verify condition or communicate changes in prognosis.

- 7.4 For foreseeable medical treatment, employees must work with their department to schedule the leave, subject to the treatment plan established by the health care provider, so as not to unduly disrupt the department's or CCS' operations.
- 7.5 Where appropriate, leave on an intermittent basis for the care of a newborn child or a foster or adopted child may be possible. If such leave is requested through documentation from the employee and their healthcare provider to the HRO, the employee and their supervisor must mutually agree to the work schedule and duration.

8.0 Modified Duty Assignments and Temporary Transfers

- 8.1 CCS seeks to temporarily accommodate employees in a manner which keeps them productive, orientated to the workplace, and maintains needed skills. To this end, CCS considers all requests or inquires very seriously and actively engages with the employee in analyzing the need for, and when necessary, proper application of, a modified duty assignment.
- 8.1.1 Modified duty assignments can be utilized up to 45 calendar days and can be re-certified for an additional 45 calendar days if necessary. A modified duty assignment cannot extend beyond 90 calendar days under FMLA.
- 8.2 For certain situations, CCS can transfer an employee temporarily, at the employee's current pay, to a position that would accommodate a leave of absence or work restriction that could not be accommodated within their current position. CCS is not required to promote or create a position as a form of accommodation.

9.0 Substitution of Paid Leave/Concurrent Leaves

- 9.1 It is the general policy of CCS that FMLA will run concurrently with all other forms of leave. CCS will require an employee to substitute paid sick leave for an otherwise unpaid FMLA leave. Any leave, paid or unpaid, used for an FMLA qualifying event, excluding compensatory time earned under the [Fair Labor Standards Act](#) (FLSA), will run concurrently with, and not in addition to, the use of FMLA for that event. The types of leave that can be substituted for otherwise unpaid FMLA include annual leave, sick leave, compensatory time and/or personal holidays.
- 9.1.1 A leave of absence covered by worker's compensation will not automatically run concurrently with FMLA. An employee who meets the FMLA eligibility requirements may request that FMLA run concurrently with absences due to work-related illness or injury covered by workers' compensation at any time during the absence.
- 9.2 Compensatory time earned pursuant to the FLSA will not be counted toward the employee's FMLA leave entitlement. Compensatory time does not count as leave.

10.0 Certification(s)

- 10.1 After CCS receives an FMLA request or is notified of a qualifying FMLA medical event, a health care provider must complete a medical certification for the employee or the family member, unless one is on file for the specific condition. The health care provider will be granted at least fifteen calendar days to complete the certification and return it to the HRO. Failure to provide the requested certification may result in the denial of or discontinuation of a leave. An extension may be provided based on a reasonable explanation for the delay.
- 10.2 To ensure a timely and accurate assessment of a leave request, the medical certification should be complete and all applicable information should be included. If CCS has questions regarding the initial certification, CCS may return the medical certification to the

employee with direction, in writing, to have the health care professional clarify information in the original certification. The employee will have fifteen calendar days to obtain the additional information. HRO may contact the employee's health care provider only to authenticate and/or to clarify the certification. HRO will not ask the health care provider for more information beyond what is on the certification form.

- 10.3 A request for re-certification for an ongoing condition may be made periodically in connection with the employee's absence. CCS can request more frequent recertification if the circumstances described in the previous certification have changed significantly or if CCS receives information that raises questions about the absence.
- 10.4 If CCS has reason to question the medical certification, CCS may, at its sole discretion, seek a second opinion from a health care provider of its choosing and expense. If the second opinion conflicts with the first opinion, a third opinion may be obtained at CCS' expense from a health care provider mutually chosen by the employee and CCS. The third opinion will be controlling. The employee will be considered provisionally entitled to leave pending the second and/or third opinion. If the third opinion determines the medical condition does not qualify as FMLA, the employee will be required to use paid leave options, if available. If no leave is available, the employee may request leave without pay.

11.0 Continuation of Benefits

- 11.1 During approved FMLA leave, CCS will continue an eligible employee's health and other benefits at the same level and under the same conditions as if the employee had continued to work. The eligible employee will continue to be responsible for paying their portion of health care and other benefit premiums during their FMLA absence.
 - 11.1.1 During paid leave, CCS will continue to make payroll deductions for the employee's share of the health care and other premiums.
 - 11.1.2 During unpaid leave the employee must continue to make these payments. Payment should be coordinated with the benefits office. The employee using unpaid FMLA leave will be required to indicate on the FMLA request form how they intend to pay their share of premiums during their absence.

12.0 Return to Work

- 12.1 Prior to returning to work from an employee's own medical leave, the employee will be required to provide a return-to-work certification, also known as a doctor's release, from a health care provider. The return-to-work certification must be job related and consistent with business necessity. This statement is to be submitted to the HRO by the employee prior to returning to the workplace.
 - 12.1.1 A return-to-work certification will not be required for an employee returning from caring for a qualifying family member though communication with the HRO regarding expected return to work date is expected.
- 12.2 Where possible, an employee returning to work from an approved FMLA event shall be returned to the same or an equivalent position, benefits and conditions of employment as if the employee had been continuously employed during the leave period.
- 12.3 If the employee's doctor believes the employee may return to work but with limitations or restrictions, the limitations or restrictions must be noted with expected duration of the restrictions. When an employee returns to work with such restrictions, temporary modified duties must be written out and reviewed. In cases of continued medical treatment, the employee is asked to make a reasonable effort to schedule the treatment so as not to unduly disrupt the department's operations.

- 12.3.1 An employee's restrictions may change or need to be modified as recommendations change. If there is no work available for the employee given the modified duties, CCS may require the employee to bring an updated doctor's note once new restrictions are in place. When the updated doctor's note is received, new modified duties should be developed consistent with the employee's restrictions and abilities to meet the needs of the position.

13.0 Temporary Disability

Temporary disabilities are covered by the [Americans with Disabilities Act of 1990](#) and may be covered under other laws.

For more information about reasonable accommodations for disabilities, including temporary disabilities, please see CCS Administrative Procedure [2.30.01-B](#) Reasonable Accommodations and Return to Work.

14.0 Leave Abuse

An employee on FMLA leave must be out for the reason of the leave and may not receive compensation from another entity or conduct business other than the reason for the leave. An employee who fraudulently obtains FMLA leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions and may be subject to appropriate disciplinary action up to and including termination. If you believe an employee is abusing their FMLA entitlement, please contact the HRO for further guidance.

15.0 Related Information

- 15.1 [Americans with Disabilities Act of 1990](#)
- 15.2 Applicable Collective Bargaining Agreements:
 - 15.2.1 For represented classified employees – [Collective Bargaining Agreement with Washington Federation of State Employees](#)
 - 15.2.2 For represented faculty – [Master Contract with Association of Higher Education](#)
- 15.3 CCS Administrative Procedure [2.30.01-B](#) Reasonable Accommodation and Return to Work
- 15.4 [Chapter 50A RCW](#) Paid Family Medical Leave
 - 15.4.1 [RCW 50A.15.110](#) Leave available under other laws – Coordination
- 15.5 U.S. Department of Labor Websites:
 - 15.5.1 [Fair Labor Standards Act](#)
 - 15.5.2 [Family and Medical Leave Act](#) Law
 - 15.5.2.1 [Family and Medical Leave \(FMLA\)](#) Benefits
 - 15.5.3 [Office of Disability Employment Policy - Accommodations](#)
- 15.6 [WAC 296-130](#) Family Care
- 15.7 [WAC 357-31](#) Holidays and Leave

Originated: June 2005; Revised April 2023
Cabinet approval: March 2006; August 2023