POLICY:


DEFINITIONS:

Active Duty - The term “active duty” means duty under a call or order to active duty under a provision of law referred to in section 101(a) (13) (B) of title 10, US Code.

Child - Biological, adopted, or foster child; a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Contingency Operation – A military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may be involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force: or, results in the call or order to, or retention on, activity duty of members of the uniformed services under title 10, United States Code or any other provision of war or during a national emergency declared by the President or Congress.

Covered Service member - means a member of the Armed Forces, including a member of the National Guard or Reserves, 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.

Eligible Employee - An employee who has worked for the state for at least twelve months (52 weeks) and has worked at least 1,250 hours in the 12-month period immediately preceding the leave. Time spent during any type of absence, whether paid or unpaid (including a suspension or administrative leave) does not count toward the 1,250 hours worked requirement.

Family Member – The FMLA has its own definition of family member which is the employee’s spouse, child or the employee’s own parent. Renton Technical College also includes same-sex domestic partner as defined by WAC 182-12-260 (2) or qualified by the registration card issued by the Washington Secretary of State for a same-sex partnership.

Intermittent Leave - Leave that is not taken consecutively or leave taken on a reduced schedule. Examples of intermittent leave might be leave taken spread over a period of months, such as for chemotherapy, or for planned doctor appointments over time.

Next of Kin - with respect to a covered service member means the nearest blood relative of that individual, or individual designated as next of kin by the covered service member.
Outpatient Status - with respect to a covered service member means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Qualifying Exigency - as defined in regulations issued by the Department of Labor., which includes assisting covered service members who have been called to active duty in the armed services. This might include helping to arrange for or temporarily providing childcare, assisting with a family business, completing the sale of personal property, etc.

Serious Health Condition - A condition which requires inpatient care at a hospital, a residential medical care facility; or a condition which requires continuing care by a licensed health care provider. See the separate definition of serious injury or illness for a covered service member.

Serious Injury or Illness for Covered Service members - The term “serious injury or illness,” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

Spouse - A husband or wife as defined or recognized under state law.

Twelve-Month Period – The method used by Renton Technical College to calculate the amount of FMLA leave an eligible employee may request on a rolling twelve month period measured forward from the date an employee’s first FMLA leave begins.

Twenty-six Week Period - for purposes of FMLA military family leave applicable to qualifying FMLA condition means twenty-six work weeks of leave during a single twelve-month period of care for the service member. Twenty-six work weeks is the maximum amount of FMLA leave in a single twelve month period and cannot be combined with an additional 12 weeks for other FMLA reasons.

PROCEDURE:

I. Eligibility
   Generally, an individual must be an employee of the state for at least 12 months (52 weeks) and has worked at least 1,250 (average of 60% FTE for at least one year) hours in the 12 month period immediately preceding the leave. The individual must not have already used the 12 week FMLA entitlement.

II. Leave Entitlements
   The FMLA guarantees that an eligible employee can have job protected time off work as follows:
   A. Up to 12 workweeks of job protected time off work per year because of:
      1. A serious health condition,
      2. A family member’s serious health condition,
      3. Parental leave to care for a newborn or newly adopted or placed child within the first 12 months from the date of birth, adoption or placement. (NOTE: for birth mothers,
any period of pregnancy related temporary disability is not deducted from the 12 week parental leave entitlement).

4. Because of any qualifying exigency arising out of the fact that the employee’s family member 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.

B. If the employee is an eligible family member or next of kin the employee can have up to 26 workweeks of "Service Member Family Leave" during a single 12-month period to care for a covered service member who is;
   1. Undergoing medical treatment, recuperation, or therapy,
   2. Otherwise in outpatient status, or
   3. Otherwise on the temporary disability retired list, for a serious injury or illness.
   4. If FMLA covered leave is taken under 1 and 2 above, the combination of leave taken may not exceed 26 workweeks in a 12 single month period. Where medically necessary, leave may be taken on an intermittent basis or as a reduced work schedule.

D. College Employment of Both Spouses: Spouses employed by Renton Technical College are jointly entitled to a combined total of 12 workweeks of FMLA leave for the birth and care of a newborn, or for placement of a child for adoption or foster care. Leave for this purpose must be taken within 12 months of the birth, adoption or placement for foster care, regardless of when the leave began. Spouses both employed by the College are limited to a total 26 workweeks combined during one 12-month period when the leave is to take care of a service member who is recovering from a serious injury or illness sustained while in the line of duty on active duty. Each eligible employee is entitled to their own 12 weeks of leave when their child has a serious health condition or if one spouse or other eligible family member is seriously ill or both has their own serious health condition, or for military “qualifying exigencies” leave.

E. Employees who work less than full time receive FMLA on a pro rata basis as determined by the employee’s status at the time of the request for leave.

III. Intermittent Leave/Reduced Leave Schedule
    Personal medical leave or serious health condition leave covered by the FMLA, or leave to care for a covered service member who is recovering from a serious illness or injury under this policy may be taken intermittently or on a reduced schedule when certified as medically necessary. Intermittent use of FMLA leave for birth and care of a newborn or placement for adoption or foster care is subject to the approval of the College. Under state law, a birth mother’s period of temporary pregnancy-disability is not deducted from the 12-week FMLA leave entitlement.

IV. Notice and Certification Requirements
    Employees are expected to give at least 30 days’ notice of the need for leave, where the need for leave is foreseeable; or, for leave under 1d above, when the need for is not foreseeable the employee must provide as much notice as is "reasonable and practicable". Employees are not permitted to invoke FMLA after the fact, if sick leave or another paid leave status was used to cover the absence. However, if the employee or employee’s personal representative was physically or mentally incapable of invoking one’s entitlement to FMLA during the entire period absent from work due to an FMLA-qualifying event, FMLA may be approved retroactively, with sufficient documentation within two workdays upon returning to work.
If the employee does not request Family and Medical Leave, and the reason for the absence meets the FMLA criteria, the College has the authority to designate FMLA. If the College is aware of the needed leave, but has been unable to confirm that the leave qualifies for FMLA, a preliminary designation will be made and the employee will be notified. If it is later learned that the leave does not qualify, the College will withdraw the designation in a written notice to the employee.

Personal medical leave or serious health condition leave covered by the FMLA, or leave to care for a covered injured or ill service member under this policy requires sufficient certification in a timely manner by the appropriate health care provider (timely manner generally means within a 15-day period after notice that certification is required). Recertification may not be requested more often than every 30 days and only in connection with an absence by the employee unless circumstances described in the previous certification have changed significantly. Any medical/military information an employee may submit to the supervisor should be sent to Human Resources and not retained in the employing department. Leave for a “qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation must be supported by certification in such time and manner as approved by the Department of Labor.

V. Independent Medical Evaluation
As allowed by law, the College may require that a second opinion from an independent medical provider selected by Renton Technical College be obtained at the College’s expense. If there is a conflict in the two opinions, the College may pay for a third health care provider (agreed upon by both the College and the employee) to render a third and final, binding opinion.

VI. Leaves Concurrent with FMLA
As allowed by law and current labor agreements, all related leaves shall run concurrent with FMLA.

VII. Use of Paid Leave
The employee may use appropriate available paid leave or may choose to use leave without pay while on approved FMLA. Sick leave may only be used under those circumstances for which sick leave is otherwise provided.

VIII. Temporary Reassignment During Intermittent/Reduced Schedule FMLA
In cases where intermittent leave or a reduced schedule has been approved, the College reserves the right to temporarily reassign the employee with no loss of pay or benefits to a different job or to a part-time position for the duration of the leave, which better accommodates the employee’s need for leave and the College’s operational needs.

IX. Supervisor Responsibility
It is the responsibility of supervisors to notify Human Resources of all medical and military leaves that they become aware of in a timely manner. Human Resources will make the determination concerning whether or not a leave is covered under the FMLA upon receipt of the appropriate certification.

X. Return to Work
Employees are required to notify the College of their return-to-work date at least two (2) days prior to returning if the date is earlier than originally planned. Employees returning from leave are required to provide a doctor’s release (except in certain cases, such as paternity leave).

XI. Benefits Status
During a leave covered by the FMLA, the College will pay the employer-paid portion of medical benefits coverage for up to 12 workweeks or up to 26 workweeks for "2" in "Leave Entitlements" above. The employee is responsible for any insurance co-payments, extra premiums to cover family members, life insurance, long term disability insurance, parking fees, or other payroll deductions.

For employees whose leave extends beyond the FMLA-covered period, employer paid medical benefits coverage is continued as long as the employee is in pay status for at least eight (8) hours during each month of leave. Employees who do not have appropriate paid leave to use may self-pay in order to continue basic medical benefits coverage.

Employees have a minimum 30-day grace period in which to make premium payments. If payment is not made in a timely manner, health insurance may be cancelled provided the employee is notified in writing at least 15 days before the date that health insurance will lapse. The College may choose to pay the employee’s premiums during FMLA, in which case the College is entitled to recover these payments from the employee.

The College may recover both any unpaid employee premiums and all employer health premiums if the employee does not return to work or returns to work for less than 30 days, unless the reason for not returning is the continuation of FMLA qualifying condition or other circumstances beyond the employee’s control.

XII. Return to Work Status
The FMLA entitles an employee to return to the position held prior to the leave or to a position that is like job title, work location, salary, work hours, etc.