Family and Medical Leave

BACKGROUND

The Family and Medical Leave procedure details the process for qualifying an employee for FMLA.

POLICY STATEMENT

Northshore Technical College has adopted the provisions of the Family and Medical Leave Act of 1993 for all its employees. The Louisiana Department of Civil Service applies FMLA to all full-time classified employees under General Circular No. 1126 dated October 8, 1993. The leave is unpaid, and allows an employee to take a maximum of 12 weeks for a qualifying event.

ELIGIBILITY

Employees are subject to the qualification of eligibility under the Family and Medical Leave policy, In order to be eligible for FMLA, an employee must meet all of the following conditions:

- The employee must have worked in state service 12 months or 52 weeks. For eligibility purposes, the employee must have been on the payroll for 12 months or 52 weeks consecutively.

- The employee must have worked at least 1250 hours during the 12-month period immediately before the leave is commenced. Under the Fair Labor Standards Act, “hours worked” consists of active on-duty time where the employee is required to be on the employer’s premises, on duty or at a prescribed work place. Regular and overtime hours worked should be counted to qualifying the 1250 hours.

- The employee must work in an office or worksite where 50 or more employees are employed by the company, or within 75 miles of that office or worksite.
ENTITLEMENT

Eligible employees are entitled to up to twelve (12) work weeks of leave or up to 26 weeks of leave for military caregiver leave, in any year. NOTE: From this point forward any reference to twelve (12) work weeks of leave also is meant to cover “or up to 26 weeks of leave for military caregiver leave”. For purposes of this policy, a year is defined as the twelve-month period beginning with the date the employee first uses FMLA designated leave. This shall be referred to as a “first use year”. The following are qualifying events:

1. For the birth of a child and/or care for the child
2. For placement of a child for adoption/foster care or care for newly placed child
3. For the employee’s own serious health which prevents the employee from performing their essential duties
4. For the care of the employee’s spouse, child or parent with a serious health condition

Effective 1/28/2008 FMLA was amended for Military Family Leave adding the following qualifying events:

5. “Any 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. Qualifying exigencies may include attending certain financial and legal arrangements, attending certain counseling session, and attending post-deployment reintegration briefings.

6. An eligible employee who is the spouse, son, daughter, parent, or next of kin (designated in writing) of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. A covered service member is a current member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. The “single 12-month period” for purposes of military caregiver leave is a period that commences on the date an employee first takes leave to care for a covered service member with a serious injury or illness.

GENERAL PROVISIONS

The LCTCS Board of Supervisors requires employees to use available paid leave, pursuant to the applicable leave policy, prior to using FMLA leave without pay. Paid leave used at the same time as FMLA leave may be used only for purposes allowed for the designated leave according to the LCTCS leave policy, and for no less than minimum increments specified in the policy. Paid leave shall be utilized first, and then the remainder of
the applicable weeks will be considered unpaid leave. Paid leave time taken as well as any unpaid leave time taken for FMLA covered conditions will be concurrent and count toward the 12-weeks of FMLA leave or 26 weeks as applicable for military caregiver leave only. The paid leave time will not be counted as a separate leave, if the leave is warranted due to the FMLA qualifying event.

Intermittent or reduced schedule leave may be approved for the birth or placement of a child through adoption or foster care. For the employee, intermittent leave must be approved when medically necessary and certified by a physician. If the employer has reasonable concerns about an employee’s ability to safely perform a job, the employer can require an employee to provide a fitness for duty certification before the employee may return to work from an absence while on intermittent leave.

Work related leave is also subject to the provisions of FMLA.

The appointing authority and his designated representatives may declare any leave taken to be under the FMLA after three days absence for an employee’s serious health condition where the employee has been under the care of a health care provider.

**APPROVAL PROCESS**

Employees are required to provide a Letter of Leave Request and a Medical Certification. All employees requesting leave under this policy must also provide a verbal explanation to their Department Head and Human Resources. Taking paid or unpaid leave under FMLA may be denied if the following criteria are not met:

- Employees must provide thirty (30) days advance notice when the leave is “foreseeable” unless it is not medically impossible or impractical to provide such notice.

- Employees must provide Medical Certification with a letter of leave request because of a serious health condition of an employee or covered family member. The Medical Certification must be submitted within fifteen (15) calendar days of notice to use leave.

The Medical Certification provided is subject to review prior to approval. The Appointing Authority or designee has the right to ask for a second opinion if there is reasonable doubt. If a second opinion is requested, then the additional opinions will be at the agency’s expense. If a third opinion is needed, then the results of the third opinion will be binding. The Medical Certification of a serious health condition shall include, but is not limited to the following: the date the condition commenced, expected duration and brief statement of treatment. Employees who deliberately falsify documents will be subject to disciplinary action up to and including termination.

- For an employee’s medical condition, the certification must also include a statement that the employee is unable to do work of any kind or is unable to perform the essential functions of the job. Serious health condition is defined as incapacitated for more than three calendar days plus two visits to a health care provider to occur within thirty days of the beginning of the period of incapacity with the first visit occurring within seven days of the first day of incapacity.
For a family member who is seriously ill, the certification must include a statement that the patient requires assistance and the employee’s presence would be beneficial.

PROCEDURE

The following outlines the procedures used for requests for use of FMLA:

1. The employee notifies the Department Head and Human Resources of need.

2. NTC Human Resources department will provide employee FMLA notification packet. This includes but is not limited to letter of notification of FMLA eligibility and entitlement, copy of NTC FMLA policy, Medical Certification form, Leave Request Form, Release to Return to Work form, and deadline for medical certification to be returned to HR.

3. Once HR receives an employee’s Medical Certification form, HR will determine the employee’s entitlement (length of employment, number of hours worked during 12 month period) and eligibility (qualifying event).

4. If the employee does not qualify, Human Resources will notify the employee and the relevant management personnel of the disqualification.

5. If the employee qualifies, Human Resources will issue the NTC FMLA Employer Response packet to the employee. This packet will include but is not limited to the duration of leave, paid leave balances, expected return date, benefit coverage, job restoration, and fitness for duty upon return.

6. HR is responsible for monitoring the status of the employee while on leave.

7. Prior to the employee’s return to duty, he/she must provide the NTC a written fitness for duty report to return to work. A physician must certify fitness for duty that an employee can return to work.

STATUS OF THE EMPLOYEE

- Employees with state health coverage, who become FMLA qualified, will have the employer portion of the premium paid by the agency. The employee is required to make arrangements with Human Resources for payment of the employee health care premium and premiums for any other benefit to continue coverage. Premium payments must be submitted in a timely manner to ensure maintenance of coverage.

- Employees returning from FMLA must be restored to their former positions or equivalent positions with equivalent benefits.
RETENTION

FMLA documents must be maintained in the employee’s individual medical file. The federal retention requirements of FMLA states that related documents must be kept on file for three (3) years after leave ends.

Policy Reference: Family and Medical Leave Act of 1993
- Louisiana Department of Civil Service General Circular No. 1126
- LCTCS Policy # 6.003 Leave Record Establishment and Regulations for Unclassified, Non-Civil Service Employees

Review Process:

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