

CP 2.1.1

Various Forms of Leave

Related Board of Trustee Policy: BP 2.1

Responsible Official *President*
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Procedure

Annual Leave (Vacation)

Vacation leave earned will be based on aggregated service as follows:

Years of <u>Aggregate Service</u>	Hrs. Granted <u>Each Month</u>		Hrs. Granted <u>Each Year</u>	Days Granted <u>Each Year</u>
Less than 5 years	9 hrs. 20 min.		112	14
5 but less than 10	11 hrs. 20 min.		136	17
10 but less than 15	13 hrs. 20 min.		160	20
15 but less than 20	15 hrs. 20 min.		184	23
20 years or more	17 hrs. 20 min.		208	26

The maximum amount of vacation leave that can be accumulated for all full-time personnel is 240 hours or 30 days. On June 30th of each year, any employee who has vacation leave in excess of the allowed accumulation of 240 hours shall have that converted to sick leave.

Vacation leave can be used for vacation, absence for personal reasons, adverse weather conditions, time lost for late reporting, or for donations to an employee who is an approved voluntary shared leave recipient, or for any of the same reasons as sick leave; namely, personal illness, illness in the immediate family, and death in the immediate family. Vacation can only be used for scheduled workdays.

Unused leave may be transferred when an employee transfers between institutions of the Community College systems or to other state agencies. The employing institution may permit the transferee to transfer all or none of his/her unused annual leave. If a McDowell Technical Community College employee transfers, and his/her unused annual leave is not transferred, the employee will be paid for the leave.

Lump sum payment for annual leave is made only at the time of separation. An employee shall be paid in a lump sum for accumulated leave not to exceed a maximum of 240 hours when he/she is separated from institutional service due to **resignation, dismissal, reduction in work force, death, service retirement, or leave without pay for military purpose**.

In the case of a deceased employee, payment for unpaid salary, terminal leave, and travel shall be made upon establishment of a valid claim to the deceased employee's administrator or executor. In the absence of an administrator or executor, payment shall be made to the Clerk of Superior Court of the county of the deceased employee's residence.

1. Vacation leave used for vacation should be requested in advance on the appropriate form. Where alternate coverage would need to be arranged, such leave should be requested one week in advance, where possible.
2. Vacation leave used as sick leave can be indicated on the leave form.

Bonus Leave

The General Assembly provided 80 hours of bonus leave effective September 30, 2002, 80 hours of bonus leave effective July 1, 2003, and an additional 40 hours of bonus leave on September 9, 2005. Full-time employees who work less than 12 months and permanent part-time employees (half-time or more) shall receive a pro rata amount of the 80 hours.

Bonus leave shall be taken only upon appropriate authorization and may be used for any purpose for which regular vacation leave is used. It shall be charged in units on time consistent with regular vacation leave guidelines. The employee shall determine whether to charge approved leave to regular vacation leave or bonus leave.

Bonus leave shall be accounted for separately from regular earned vacation leave. Any balance of bonus leave on December 31 will be retained by the employee and transferred into the next calendar year. It will not be as part of the maximum 240 hours of vacation that can be retained, nor will it be subject to conversion to sick leave.

Civil Leave

1. Non-Job-related Civil Leave

Employees classified as full-time permanent, full-time temporary, or part-time temporary employees are entitled to leave with pay when serving on a jury or when subpoenaed as a witness. It is the responsibility of the employee to inform the supervisor when the duty is scheduled and the expected duration.

The following will apply:

Jury Duty:

An employee who serves on a jury is entitled to leave with pay and regular compensation plus fees received for jury duty. The employee should report back to work as soon as jury duty is completed and must report back the day following completion of the duty. If jury duty occurs on a scheduled day off, he/she is not entitled to additional time off. Time on jury duty is not included in total hours worked per week.

When an employee is subpoenaed or directed by proper authority to appear as a witness, the employee may choose one of the following options:

Option 1: Charge no leave, and turn fees received into the agency

Option 2: Use vacation leave, and retain any fees received

(In either case, this is not considered work time and is not included in the total hours worked per week.)

Note: An employee who is a party (plaintiff or defendant) in a court procedure is not considered a "witness"; therefore, vacation leave must be used, or leave without pay, for purposes of attending court.

2. Job-related Civil Leave and Other Job Related Proceedings

Leave with pay is provided to an employee to attend court or a job-related proceeding in connection with official job duties.

Employees Covered

All employees, including full-time permanent personnel, full-time temporary, and part-time temporary are included.

Court Attendance – Official Duties

When an employee attends court in connection with official duties, no leave is required and fees received as a witness shall be turned in to the agency.

Note: If court is on a day that is normally an off-day, the time is working time and included in the normal hours worked per week.

Compensatory Leave

An employee's exemption status is based on his or her duties and responsibilities.

Exempt and Non-exempt Employees:

1. Exempt Employees: Generally employees in the following categories are exempt (**may not earn**) overtime compensation: Executive, Administrative, Managerial, Professional Non-faculty, and Instructional faculty.
2. Non-exempt Employees: Generally employees in the following occupational categories are not exempt from (**may earn**) overtime compensation: Technical, Paraprofessional, Secretarial, Clerical, Skilled Crafts, Service, and Maintenance.

For Non-exempt Employees, full-time (regular) personnel, full-time (other), and part-time (regular) employees are eligible. Part-time (other) employees are not eligible for Compensatory leave.

Amount Earned: Compensatory leave is earned at the rate of 1.5 hours for each hour worked by a *non-exempt* employee in excess of 40 during a workweek. The maximum amount of compensatory leave that may be accrued by an employee is 240 hours, which is the number of hours of compensatory leave earned for 160 hours of overtime.

Scheduling of Compensatory Leave: *Non-exempt* employees should make every effort to take all compensatory time before the end of the pay period in which overtime is worked. When the overtime occurs late in the pay period, compensatory time must be taken within the next pay period.

The determination of what constitutes a reasonable time within which to grant an employee's request for compensatory leave will be based on customary work practices of the College and the fact and circumstances, surrounding the particular compensatory leave request. In addition to other relevant factors, the College may consider the following:

1. Whether the employee's absence will interfere unreasonably with the College's normal work schedule.
2. Whether the employee's requested absence period coincides with the College's anticipated peak workloads based on past experience.
3. Whether the employee's requested absence period will occur while the College is experiencing emergency needs for staff or services, and;
4. Whether qualified substitute staff is available to perform the employee's work during his/her requested absence.

Non-cumulative, non-transferable: Compensatory leave is not cumulative beyond a twelve-month period. For the reason, an employee must be required to take compensatory leave as soon as possible after it is credited. Compensatory leave may not be transferred to any other type of leave or to another agency.

Payment in Lieu of Compensatory Leave: Employees subject to this policy will not be entitled to cash payment in lieu of compensatory leave, except as may be determined in the College's sole discretion on a case-by-case basis or under the following circumstances:

1. Non-exempt employees will be paid for all overtime hours worked to the extent that such hours exceed the maximum of 240 hours of compensatory leave that may be accrued under this policy.
2. A non-exempt employee who has accrued, unused compensatory leave at the time of his/her separation from employment with the College shall be paid for such compensatory leave at a rate not less than the average regular rate received by the employee during the three years immediately preceding the employee's separation or the regular rate received by the employee at the time of his/her separation, whichever is greater.

Educational Leave

To be eligible for educational leave, the employee must have completed *at least three years* of employment with the College prior to beginning the educational leave. State funds may be used to pay employee salaries while they are on educational leave if the following criteria are met:

1. The employee is employed full-time on a 10 - 12- month basis.
2. The employee must be under contract to the institution for the next fiscal year and expresses his/her intention to honor the contract.
3. Educational leave will not exceed one semester per fiscal year.
4. There are available funds to cover expenses without causing undue hardship for the College.

An employee who fails to honor the contract stipulated above shall be required to repay the amount expended for the educational leave. If the employee fulfills a portion of the contract before failing to honor the contract, repayment shall be based on a pro-rata portion (e.g., if an employee works 4 months of a 12-month contract, a repayment of 66.7% of the educational leave would be required).

Procedure for Requesting/Granting Leave

- A. **Submission of Leave Request.** Employees who desire to take educational leave must submit a written request for a specified time period to their chief administrator at least six months before the leave is to begin. Leave should be requested only for courses/experiences that will increase the employee's competence in his or her position with the College. The letter must include the following:
 - The specific times and dates needed to complete the educational activities.
 - A listing of the educational leave activities and complete description.
 - A statement of intent to return to the institution following the educational leave (signed by the employee).
- B. **Evaluation of Leave Requests.** Appropriate chief administrators will be responsible for evaluating requests for educational leave by employees in their department and making recommendations to the President of the College as to whether a particular leave request should be granted. All requests for educational leave must be approved by the College's Board of Trustees. The granting of any educational leave is contingent upon the availability of State funds to pay for the leave and of personnel to cover the responsibilities of the employee requesting leave during the time that the employee will be released from his or her job duties.
- C. **Selection of Candidates for Educational Leave.** The College reserves the right to determine the annual educational leave requests that it wishes to support, based on the increased skills, qualifications, or outcomes that are deemed most useful at the time. In the event that applications for educational leave in any given year exceed

the number that can be released without jeopardizing the ongoing programs of the college, selection will be determined using the following criteria:

- Employees who need to complete specific course work as a requirement of employment.
- Those who need additional course work to complete a degree, provided the degree is directly related to the employee's assignment.
- Employees requesting courses which will be beneficial to the college's instructional programs.
- In the event that a selection must be made among candidates qualifying equally under this stated criteria, the following guides will be used:
 - A. Employees who have not previously utilized educational leave.
 - B. Seniority of employees.

Leave Transfer

The employee will provide in writing from the transferring agency verification of the applicable balances of the Business Office.

Leave Without Pay

Employee Responsibility

The employee shall:

- Apply in writing to the supervisor for leave without pay,
- Give written notice of intention to return to work at least thirty days prior to the end of the leave, and
- Return to duty within or at the end to the time granted, or
- Notify the college immediately when there is a decision not to return.

If the employee does not give notice of the intention to return, the college is not required to provide reinstatement but may do so if feasible. Failure to report at the expiration of a leave, unless an extension has been requested and approved, may be considered as a resignation.

College Responsibility

Factors to consider in determining whether to grant leave without pay and the amount of time to approve are:

- Needs of the employee requesting leave,
- Workload,
- Need for filling employee's job,
- Chances of employee returning to duty, and
- The obligation of the college to reinstate employee to a position of like status and pay.

It is the responsibility of the college to administer leave without pay in a manner that is equitable to all of its employees.

Advisor Note: When an employee has a personal illness, the agency must consider the following:

- * Does the need for leave qualify as Family and Medical Leave? If so, the rules of that policy shall be applied first.
- * Is the illness likely to result in participation in the Disability Income Plan?
- * Does the employee qualify for Voluntary Shared Leave?

Taking these into consideration, the agency should explain these policies to the employee and assist in determining which are applicable.

Leave without pay for extended illness may be:

Granted for:	For a period	Sick leave	Vacation/Bonus leave
Employee illness (not covered by short-term disability or FMLA)	up to one year. Any extension shall be managed/ documented by the college president.	shall be exhausted during the time that would cover the waiting period required by DIP.	If leave does not qualify for FMLA, MTCC requires that the employee use accumulated vacation/bonus leave before granting leave without pay.
Disability Income Plan (Short-term disability)	up to one year. Any extension must be approved by the Retirement System Medical Board.	shall be exhausted during the waiting period. Additional sick leave may be exhausted or retained.	may be exhausted or retained.
Family and Medical Leave	up to twelve workweeks (See FMLA Policy).	shall be exhausted for employee illness. See FMLA Policy for other options.	may be exhausted or retained.

Special Provision for Long-Term Disability

If an employee is approved for long-term disability following the short-term disability, the employee must be separated from leave without pay. The employee shall be reinstated to the payroll for the purpose of exhausting any unused vacation/bonus and sick leave the employee had prior to going on leave without pay.

Vacation

Special approval for vacation leave without pay is required by appropriate administration.

Personal or Other Reasons

An employee must exhaust all accumulated leave prior to going on leave without pay.

Exhausting Leave

While exhausting leave, the employee:

- Continues to accumulate leave,
- Is eligible to take sick leave,
- Is entitled to holidays, and
- Is eligible for salary increases during that period.

Any accumulated unused vacation/bonus leave or sick leave shall be retained. Eligibility to accumulate leave ceases on the date leave without pay begins.

If leave without pay extends through June 30, any vacation leave accumulated above 240 hours shall be converted to sick leave. (Bonus leave does not convert to sick leave).

Health Insurance

While on leave without pay the employee may continue coverage under the State's health insurance program by paying the full premium cost (no contribution by the State).

Retirement Status

All accumulated retirement credits shall be retained. If the leave without pay is granted for purposes which will tend to make the person a more valuable employee, permission may be received from the Board of Trustees of the Teacher's and State Employee's Retirement System to make personal contributions to the retirement account during this period and receive service credit. The request must be made in advance by the college president and the college must agree to pay its share of the cost. The employee should contact the Retirement System for information regarding all specific requirements.

Reinstatement

Reinstatement to the same position or one of like seniority, status and pay must be made upon the employee's return to work unless other arrangements are agreed to in writing.

Separation While on Leave Without Pay

If the employee does not return to work following leave without pay, the employee shall be paid for any unused vacation/bonus leave at time of separation.

Filling a Position Vacant by Leave Without Pay

If it is necessary to fill a position vacant by leave without pay, the position may be filled by a temporary or time-limited permanent appointment, whichever is appropriate.

SHORT LEAVE WITHOUT PAY

With approval of the supervisor, an employee may be on leave without pay for less than one-half the workdays and holidays in the month or pay period and continue to earn benefits. This accounts for time an employee is absent and has not accumulated or advanced leave credits. These short periods may be docked from the employee's pay check without submitting a personnel action form.

Unapproved Absences

Employees who are absent without approved leave may be subject to disciplinary action.

Short leave without pay may be used to cover the status of an employee who has failed to come to work but has not requested and received approval to take sick or vacation/bonus leave. Senior college administration is responsible for determining whether leave without pay is appropriate or whether the time may be charged to the appropriate leave account.

SPECIAL PROVISION FOR PARENTAL LEAVE

Policy

Employees who are not eligible for leave under the FMLA Policy shall be granted leave during the period of the biological mother's disability and may be granted additional leave for childbirth and adoptions.

Advisory Note: The FMLA Policy provides for family and medical leave for employees who have been employed with the college for at least 12 months and who have worked at least 1040 hours during the previous 12-month period.

Leave Required During Period of Disability

The college shall grant leave with or without pay to the biological mother for all of the time of personal disability. The biological mother may use accumulated sick leave during this period, and may choose to use vacation/bonus leave or leave without pay.

A doctor's certificate or other acceptable proof shall be required verifying the employee's period of temporary disability.

Additional Leave

The biological mother may desire to be on leave prior to and/or after the time of actual disability. The agency may grant vacation/bonus leave, if available, and may grant leave without pay for this purpose.

Leave for Immediate Family

The college may allow a member of the immediate family (Immediate family is defined as wife, husband, mother, father, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandmother, grandfather, children, grandchildren, step-mother, step-father) to use accumulated sick leave to care for the biological mother during the period of disability. Or, the family member may be allowed to use vacation/bonus leave or leave without pay.

Military Leave

Types of Military Leave

The policy and guidelines that follow are presented in six different sections to differentiate between the benefits applicable to the different types of leave. The sixth section covers reinstatement.

Section 1 - Active Duty Training and Inactive Duty Training

Leave with pay, up to a maximum of 120 hours each fiscal year (July - June.) [pro-rated for part-time employees] shall be granted to members of the uniformed services for:

- Active duty for training (annual training or special schools)
- Inactive duty training (drills - usually on weekends)

Section 2 - Physical Examination

Leave with pay shall be granted for a required physical examination relating to membership in the uniformed services.

Section 3 - Reserve Active Duty

When ordered to State or Federal active duty, the following shall apply for each period of involuntary service:

- 1) Members shall receive up to thirty (30) calendar days of pay based on the employee's current annual State salary.

Note: This includes special activities of the National Guard, usually not exceeding one day, when so authorized by the Governor or his authorized representative.

- 2) After the thirty-day period, members shall receive differential pay for any period of involuntary service. This pay shall be the difference between military basic pay and the employee's annual State salary, if military pay is the lesser.

Section 4 - Extended Active Duty and Other Military Leave Without Pay

Military leave without pay shall be granted for all uniformed service duty that is not covered by military leave with pay defined in Sections 1-3. Among the reasons are:

- 1) Initial active duty for training (voluntary initial enlistment);
- 2) Extended active duty (voluntary) for a period not to exceed five years plus any additional service imposed by law; (see Advisory Note on next page)
- 3) Full time National Guard duty (usually a voluntary 3 year contract);
- 4) While awaiting entry into active duty, such period as may be reasonable to enable the employee to address personal matters prior to such extended active duty.
- 5) The period immediately following eligible period(s), as defined under "Reinstatement" of this policy, while reinstatement with State government is pending, provided the employee applies for such reinstatement within the time limits defined. (Note: It is the employee's responsibility to apply for reinstatement within the time limit defined.)
- 6) Employees hospitalized for, or convalescing from, an injury or illness incurred in, or aggravated during the performance of extended active duty, except that such period shall not exceed two years beyond their release from extended active duty under honorable conditions. Also, the employee shall be entitled to leave without pay for the period from the time of release by the physician until actually reinstated in State employment, provided the employee applies for such reinstatement within the time limits defined.
- 7) Duties resulting from disciplinary action imposed by military authorities;
- 8) Inactive duty training (drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.

Agencies are not required to excuse an employee for incidental military activities such as volunteer work at military facilities (not in duty status), unofficial military activities, etc.

Section 5 - Civil Air Patrol and State Defense Militia

Civil Air Patrol: While the Civil Air Patrol is not a reserve component, it is an auxiliary to the Air Force. Its members are not subject to obligatory service. When performing missions or encampments, authorized and requested by the U.S. Air Force or emergency missions for the State at the request of the Governor or the Secretary, Department of Crime Control and Public Safety, its members are entitled to military leave with pay not to exceed 120 hours (prorated for part-time employees) in any calendar year. Exceptions may be granted by the Governor. Such service may be verified by the Secretary of the Department of CCPS upon request by the employing agency. Regularly scheduled unit training assemblies, usually occurring on weekends, are not acceptable for military leave; however, employing agencies are encouraged to arrange work schedules to allow employees to attend this training.

State Defense Militia: The State Defense Militia is considered a reserve to the National Guard, but it is not a reserve component of the U. S. Armed Forces. Its members are not subject to obligatory service unless they are assigned to a unit that is ordered or called out by the Governor. Only under the following conditions are State employees entitled to military leave with pay:

- Infrequent special activities in the interest of the State, usually not exceeding one day, when so ordered by the Governor or his authorized representative
- State duty for missions related to disasters, search and rescue, etc., again, only when ordered by the Governor or his authorized representative.

Under these conditions, an employee may be granted military leave not to exceed 120 hours (prorated for part-time employees) during any calendar year.

Section 6 - Reinstatement

The agency is required to provide the same treatment that would have been afforded had the employee not left to perform uniformed service. (This includes temporary and intermittent employees.)

Reinstatement shall be made if the employee reports to work or applied for reinstatement within the established time limits, unless the service was terminated by the occurrence of either of the following:

- 1) A separation with a dishonorable or bad conduct discharge.
- 2) A separation under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary of the applicable military branch..

Employees who resign to enter military service without knowledge of their eligibility for leave without pay and reinstatement benefits, but who are otherwise eligible, shall be reinstated as if they had applied for this benefit.

The employee shall be responsible for returning, or making application for reinstatement, within the time limits defined below.

The time limit for submitting an application for reemployment or reporting back to work depends upon the length of uniformed service. If reporting back or submitting an application for reemployment within the specified periods is impossible for unreasonable through no fault of the employee, the employee must report back or submit the application as soon as possible thereafter. The service duration and periods for returning or applying for reemployment are as follows:

- Less than 31 days, must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an 8 hour rest period;
- More than 30 days but less than 181 days, must submit a written or verbal application for reemployment with the agency not later than 14 days after the completion of the period of service; or,
- More than 180 days, by submitting an application with the agency not later than 90 days after the completion of the period of service.

Reinstatement shall be to the position they would have likely achieved had they remained continuously employed (escalator position); or, if the period of uniformed service was in excess of 90 days, their escalator position or one of like seniority, status and pay with the same agency.

The employee's salary upon reinstatement shall be based on the salary rate applicable to the proper escalator position. In no case will the reinstated employee's salary be less than when placed in a military leave status.

Sick Leave

Sick leave may be used for:

- Illness or injury
- Medical appointments
- Temporary disability due to childbirth
- To care for member of immediate family (See below for definition of immediate family)
- Death in immediate family (See Funeral Leave Policy 2.5)

- Donations to a member of the immediate family who is an approved voluntary shared leave recipient

Vacation leave in excess of 240 hours (pro-rated for certain employees) on June 30 of each year shall be converted to sick leave. Unused sick leave shall be transferred when an employee transfers between state agencies. Sick leave cannot be used for vacation leave.

There is no limit on the amount of sick leave days that can be accumulated. The college may advance sick leave not to exceed the amount an employee can accumulate during the current calendar year.

Unused sick leave shall be transferred when an employee transfers between State agencies. If the head of the employing agency or school administrative unit is willing to accept it, sick leave may also be transferred to or from:

- Local SPA agency of Mental health, Public Health, Social Services, Emergency Management
- Public School
- Community College
- Technical Institute

The President's Office should be notified of use of sick leave immediately following absence by completing the appropriate form.

The employee's immediate supervisor should be notified as soon as possible or by 8:00 a.m. on the day he/she will be absent from work.

Note: Definition of Immediate Family

Immediate family is defined as wife, husband, mother, father, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandmother, grandfather, children, grandchildren, step-mother, step-father.

Shared Leave

Covered Employees

McDowell Technical Community College will participate in the Voluntary Shared Leave program for all full-time permanent, full-time temporary. Part-time (-30 hours) employees are not entitled to participate in Voluntary Shared Leave.

Definitions

- Prolonged medical condition or prolonged period of time: 20 consecutive workdays (see exception)
- Recipient: the employee or the employee's immediate family who receives leave
- Donor: employee who donates leave
- Immediate family includes:
 - Parent
 - Biological or adoptive
 - An individual who stood in *Loco Parentis*
 - A step-parent
 - In-law relationships
 - Child: A son nor daughter who is:
 - A biological child
 - An adopted child
 - A foster child
 - A step-child
 - A legal ward
 - A child of an employee standing in *Loco Parentis*

- In-law relationships
- Sister or Brother
 - Biological
 - Adoptive
 - Step
 - Half
 - In-law relationships
- Grandparents, great-grandparents, grandchildren, great-grandchildren (including step relationships)
- Other dependents living in the employee's household

Exception to 20-day period

If an employee has had previous random absences for the same condition that has caused excessive absences, or if the employee has had a previous, but different, prolonged medical condition within the last twelve months, the agency may make an exception to the 20-day period.

Leave "Bank" Prohibited

Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.

Intimidation or Coercion Prohibited

An employee may not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Such action shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct.

Qualifying to receive leave

In order to receive voluntary shared leave, an employee (see definition of "Recipient") must have complied with existing leave rules and:

- Have a prolonged medical condition (or a member of the employee's immediate family has a medical condition that requires the employee's absence for a prolonged period of time),
- Apply for or be nominated to become a recipient,
- Produce medical evidence to support the need for leave beyond the available accumulated leave, and
- Be approved by MTCC to participate in the program.

An employee on workers' compensation leave who is drawing temporary total disability compensation may be eligible to participate, but would be limited to use with the supplemental leave schedule issued by the 25 NCAC 01E.0707.

Non-qualifying Reasons

An employee who is receiving benefits from the Disability Income Plan of North Carolina (DIPNC) is not eligible to participate in the program. Shared leave may be used during the required waiting period and following the waiting period provided DIPNC benefits have not begun.

The policy will not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term, recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.

Application Procedure

A prospective recipient shall apply or be nominated by a fellow employee to participate in the program. Application shall follow the procedure established by the college and shall include a doctor's statement.

Confidentiality

The Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient has a prolonged medical condition (or the family member) needs to be made. If the employee wishes to make the medical status public, the employee must sign a release to allow the status to be known.

When does VSL begin?

An employee may begin using voluntary shared leave after all available sick and vacation/bonus leave has been exhausted. While using voluntary shared leave, employee continues to earn leave; when accounting for leave, this vacation and sick leave should be used first.

How much leave can a recipient receive?

The amount of leave a recipient may receive is 1,040 hours (prorated for part-time employees), either continuously or, if for the same condition, on a recurring basis. However, the college may grant continuation, on a month-to-month basis, to a maximum of 2,080 hours, if the college would have otherwise granted leave without pay.

What may a family member donate?

An employee of a community college may donate vacation leave, bonus leave or sick leave to an immediate family member in any state agency, public school or community college. An employee of a community college may donate vacation or bonus leave to a coworker's immediate family member who is an employee in a state agency or public school provided the employee and coworker are at the same college. An employee may donate vacation, bonus or sick leave to another employee at a community college in accordance with the provisions of 1C SBCCC 200.94 Section (c)(11)(B).

What may a non-family member donate?

An employee of a community college may donate up to five (5) days of sick leave to a non-immediate family member employee of a community college. The combined total of sick leave donated to a recipient from non-immediate family member donors shall not exceed 20 days per year. Donate sick leave shall not be used for retirement purposes. Employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave.

How much vacation / bonus leave may be donated?

The minimum amount of vacation and/or bonus leave that may be donated is four hours.

The maximum amount of vacation leave that may be donated may not be more than the amount of the donor's annual accrual rate, and may not reduce the donor's vacation leave balance below one-half of the annual vacation leave accrual rate.

Bonus Leave may be donated without regard to the above limitations on vacation.

How much sick leave may be donated?

The minimum amount of sick leave that may be donated is four hours.

The maximum amount of sick leave that may be donated is 1,040 hours, but may not reduce the sick leave account below 40 hours.

What happens to leave at the end of the medical condition?

Any unused leave at the expiration of the medical condition, as determined by the college shall be treated as follows:

- The recipient's vacation/sick leave account balance shall not exceed a total of 40 hours (prorated for part-time employees).
- Any additional unused donated leave shall be returned to the active donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor.

What happens to leave if recipient separates?

If a recipient separates due to resignation, death, or retirement from State government, participation in the program ends.

Unused leave shall be returned to the donor(s) on a pro rata basis and credited to the same account from which it originally came.

Leave Records and Accounting

The college shall establish a system of leave accountability which provides a clear and accurate record for financial and management audit purposes.

Leave donated shall be kept confidential. Only individual employees may reveal their donation or receipt of leave, credited to the recipient's sick leave account and charged according to the Sick Leave Policy, and available for use on a current basis or may be retroactive for up to 60 calendar days to substitute for leave without pay or advance vacation or sick leave already granted to the recipient.

Parental Leave

1. Each supervisor shall be responsible for determining, in consultation with the employee and upon advice she has received from her physician, how far into pregnancy she will continue to work before going on leave and when she is able to return to work.
2. The employee must apply in writing to his/her supervisor for parental leave. He/she is obligated to return to duty within or by the end of the time determined appropriate. If she/he finds he/she will not return to work, he/she should notify the institution immediately. Failure to report at the expiration of parental leave will be considered a resignation.
3. Reinstatement to the same position one of like seniority, status, and pay must be made upon the employee's return to work.
4. The natural mother may desire to be on leave from work prior to and/or after the time of actual disability. Only vacation leave or leave without pay may be granted for this purpose. For example, she may go on parental leave and exhaust vacation leave, or take leave without pay, up until the time disability begins at which time she may start exhausting sick leave. After the period of disability ends, she may start exhausting vacation leave again or go on leave without pay.
5. The natural father may request parental leave. He may use accumulated sick leave during the period of the mother's disability, or he may request to use vacation leave or leave without pay. Any leave requested outside of the period of disability must be by use of vacation leave or leave without pay.
6. The parents of an adopted child may request parental leave to begin no earlier than a week prior to the date they receive custody of the child. Accumulated vacation leave or leave without pay must be used for this week.

Family and Medical Leave

The employer has a right to 30 days advance notice from the employee where practicable. In addition, the employer may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. The employer may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition. The employer may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. Certain types of earned benefits, such as seniority or paid leave, need not continue to accrue during periods of unpaid FMLA leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employer may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control. Leave under this Act is not a "qualifying" event under COBRA.

An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

Reinstatement is not required if an employee is reduced in force during the course of taking FMLA leave. The agency has the burden of proving that the reduction would have occurred had the employee not been on FMLA leave.

Enforcement

The Act is enforced by the Wage and Hour Division of the United States Department of Labor. Employers are prohibited from discriminating or in any way interfering with an employee's exercise of rights under the Act. Penalties include reinstatement, double pay and benefits, attorneys' fees, costs, and interest.