

Family and Medical Leave Act

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Policy and Procedures Pursuant to the Family and Medical Leave Act of 1993 for Administrators

The College has established the following policy and procedures in compliance with the Family and Medical Leave Act of 1993 (FMLA).

Eligibility

Eligible employees are defined as employees who have worked for the College for at least 12 months, which can be nonconsecutive, and have worked 1250 hours in the last year prior to the start of leave.

Entitlement

The law requires that eligible employees be given up to twelve (12) weeks of unpaid, job-protected leave during any 12-month period for:

- The birth and first-year care of a child.
- The adoption or foster placement of a child.
- The serious medical condition of the employee's spouse (includes common-law spouses but not unmarried domestic partners), child or parent (biological parent or in loco parentis but not parent-in-law).
- The employee's own serious medical condition.
- Active Duty Leave
- Caregiver Leave*

The law limits the 12-week benefit for a husband and wife working for the same employer to one 12-week leave split between them for birth, adoption, foster care or the care of a sick parent and provides a full 12-week period to each for their own illness or the care of a sick child or spouse. However, College policy permits each employee to take up to a full 12-week leave for the care of sick parent.

*Employees are entitled to up to 26 weeks of unpaid leave to care for an injured or ill relative who suffered a serious injury or illness in the line of active duty in the Armed Forces.

The College's maternity/paternity policy for full-time employees conforms to FMLA requirements. However, the unpaid leave entitlement for part-time employees is more generous for the birth of a child under the College's maternity/paternity policy and will govern when reviewing FMLA leave requests by part-time employees for such leaves. Requests for all other FMLA leaves for part-time employees will be governed by FMLA entitlement rules.

Notice Required

If the need for a leave is foreseeable, at least 30 days written notice is required. Shorter notice may be given when emergency or other justifiable conditions prevent such notice and will be addressed on a case-by-case basis. If the required minimum notice is not given for a foreseeable leave then the leave may be delayed until 30 days after proper notice is given.

Medical Certification Required

Employees will be required to sign a statement that the information given in their request for a FMLA leave is true and that the employee agrees to notify the College if any of the circumstances change. The College retains the right to request further documentation, which could include medical certification and/or second/third opinion. Medical certifications will be required for an employee's own medical/childbirth leave in conformance with existing College policy. An employee on a FMLA leave of more than one month is required to contact the Human Resources Department once a month to report on his/her status. All employees are expected to call a week prior to their scheduled return date to confirm return.

Intermittent or Reduced Leave Provisions

Leave taken for the serious health condition of an employee or family member may be taken intermittently or on a reduced leave. Such intermittent or reduced schedule leaves are limited to increments of one hour or more.

Employees may take reduced-schedule leaves for the care of an infant only with the consent of the College. Requests for such leaves will be granted in accordance with the College's existing maternity/paternity policy for administrative and confidential staff.

Continuance of Group Health Insurance

Health insurance benefits will be continued during a FMLA leave. However, if the employee provides notice of intent not to return as promised, coverage will cease and COBRA rules become applicable.

While on an unpaid leave, employees who pay part or all of their health insurance premiums must pay these premiums directly to the College the first of the month in which continued coverage is desired. If an employee misses a premium payment, coverage may be discontinued by the College. If an employee fails to return to work, or returns to work for less than 30 calendar days, health insurance premiums paid by the College during an unpaid leave will be recovered from the employee unless the failure to return is caused by a health condition or other circumstance beyond the employee's control (e.g., a spousal job transfer or employee lay-off).

Continuance of Other Benefits

Life insurance and disability benefits will be continued during a FMLA leave. However, no sick or vacation days may be accrued during any unpaid FMLA leave period. Employees on leave are not entitled to any rights that they would not have had if they had not taken leave. For example, employees on leave are not protected from reductions in force or cutbacks in benefits that occur during their absence.

Substitution of Paid Leave Days for Unpaid FMLA Leave

An eligible employee may elect to substitute up to 10 days of his/her of accrued sick leave, as permitted by College policy, in any one year due to the illness of a child, spouse or parent as defined by the Act. An eligible employee may also elect to substitute up to his/her entire accrued vacation days for unpaid FMLA leave taken for any purpose permitted under the Act.

Definition of the 12-month period

The 12-month period as defined by the College will be a rolling 12-month period measured backward from the date an employee uses any FMLA leave. For example, if an employee requests a FMLA leave beginning September 5, 2003, the employee's 12-week FMLA leave entitlement would be reduced by the number of days and/or hours of FMLA designated leave taken prior to September 5, 2003 and after September 4, 2002.

Outside Employment

It is expected that employees who are on FMLA leave from the College will not have outside employment. Exceptions to this policy must be requested in writing and approval is at the discretion of the College.

Designation of a Leave as a FMLA Leave.

All applications for unpaid FMLA leaves must be submitted for review to the Human Resources Department. Where appropriate, leave taken under FMLA will run concurrently with other types of leave e.g. disability leave. The College will designate all disability leaves as FMLA qualified leaves. Employees taking FMLA qualified leaves will be so informed by the Human Resources Department at the beginning of their leave. The College reserves the right to retroactively designate a leave as a FMLA qualified leave, to the extent permissible under the law.

Reinstatement of Employment following a FMLA Leave

Employees will be restored to the same or an equivalent job upon their return from a FMLA leave unless during the employee's FMLA leave period an event such as a reduction in force, the elimination of a shift or a facility closing would have eliminated the employee's job had the employee been on duty. Employees returning from a FMLA medical/childbirth disability leave will be required to provide medical certification attesting to their fitness to return to work.

Annual performance reviews will not be postponed to accommodate an employee's family leave. Both reviews and salary increases will remain on schedule for those who are or have been on a family leave during any College fiscal year.

Key employees, who are defined by the Act as being among the highest-paid 10% of employees at a given worksite, may be denied reinstatement following family leave if necessary to prevent substantial and grievous economic injury to the College. In this case, the College would notify the employee of its intent to deny reinstatement. If the leave has already begun, the employee has the right to return immediately in order to retain his/her job.

Application Procedures

Application forms for FMLA leave are available in the Human Resources Department. An employee requiring time off for any of the reasons cited under the Act should notify his/her immediate supervisor and the Human Resources Department within 30 days if the need is foreseeable or as soon as possible when emergency or other conditions prevent such notice. Requests for FMLA leave will be considered on a case-by-case basis and will be administered by the Human Resources Department in compliance with FMLA guidelines and Barnard College policies. All questions relating to your eligibility and entitlement under the Family Medical Leave Act should be directed to the Human Resources Department.

For Employee Rights and Responsibilities under the FMLA, click here: [FMLA Poster \(pdf\)](#)

APPROVED BY THE EXECUTIVE COMMITTEE ON MARCH 2, 1994