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Family and Medical Leave

SUMMARY

The Family and Medical Leave Act (FMLA) requires private sector employers of 50 or more employees, and public agencies to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons. Employees are “eligible” if they have worked for a covered employer for at least one year, and over 1,250 hours over the previous 12 months, and there are at least 50 employees within 75 miles. Similar provisions also apply to federal and congressional employees. Ringling College of Art and Design is a covered employer under the guidelines of the FMLA and will comply with the legislation as follows. The taking of leave under this policy will not be used against an employee in any employment decision including the determination of pay increases or discipline.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA leave, an employee of Ringling College of Art and Design must:

1. have worked for the College for at least 12 months (which need not be consecutive); *and*
2. have worked at least 1,250 hours during the 12 months prior to the start of FMLA leave.

LEAVE ENTITLEMENT


Ringling College of Art and Design will grant an eligible employee up to a total of 12 workweeks of unpaid leave in a 12 month period for one or more of the following reasons:

- for the birth of a son or daughter, and to care for the newborn child;
- for the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- for “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active military duty, or has been notified of an impending call to active duty status, in support of a contingency operation.
- to care for an immediate family member (spouse, child, or parent - but not parent-in-law) with a serious health condition; and
- when the employee is unable to work because of a serious health condition (including leave under workers’ compensation).

Leave to care for a newborn child or for a newly placed child must conclude within 12 months after the birth or placement.

MILITARY CAREGIVER LEAVE ENTITLEMENT

An eligible employee who is the spouse, son, daughter, parent, or next of kin 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 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. Under this section, the term “serious injury or illness”, 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.

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DEFINITIONS

“Son or daughter” means a biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis who is:

1. under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of mental or physical disability.

“Spouse” means husband or wife as recognized under state law.

“Next of Kin” means the nearest blood relative of that individual.

“Parent” means the biological parent of the employee or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter. Parents-in-law are not included in this definition.

12-Month Period Determination: Ringling College of Art and Design determines the 12-month period during which 12 workweeks of FMLA leave may be taken as a “rolling” 12-month period measured backward from the date an employee uses FMLA leave.


“Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves either:

- 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
- a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- any period of incapacity due to pregnancy, or for prenatal care; or
- any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer’s, stroke, terminal diseases, etc.);
- any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.); or
- any period of incapacity or treatment for such incapacity due to a chronic serious health condition.

The definition of serious health condition does not include cosmetic or elective surgery.

“Health Care Provider” means:

- doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; or
- 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; or

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- nurse practitioners, nurse-midwives, and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
- any health care provider recognized by the College or the College's group health plan benefits manager.

MAINTENANCE OF BENEFITS

Ringling College of Art and Design will maintain group health coverage for an employee on FMLA leave whenever such coverage was provided before the leave was taken and on the same terms as if the employee had continued to work. Employees with dependent group health coverage must pay their share of dependent health contributions while on leave.

Other benefits for which the employee normally makes contributions will be continued by the College as long as the employee pays for these contributions while on leave. Other benefits for which the employee does not normally make contributions will be continued by the College while on leave.

Ringling College will discontinue the maintenance of health and other benefits if and when:

- the employee on FMLA leave informs the College of an intent not to return to work at the end of the leave period; or
- the employee fails to return to work when the FMLA leave entitlement is exhausted; or
- the employee's premium is more than 30 days late and the College has given the employee written notice at least 15 days in advance advising that coverage will cease if payment is not received.


JOB RESTORATION

Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

In addition, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to **before** using FMLA leave.

Ringling College may refuse to reinstate certain "key" employees to their positions after using FMLA leave when restoration to employment would cause substantial and grievous economic injury to the College. A key employee is defined as a salaried "eligible" employee who is among the highest paid ten percent of employees. If an employee requesting FMLA leave is determined to be a key employee, the College will:

- notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
- notify the employee as soon as the College decides it will deny job restoration, and explain the reasons for this decision;
- offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; **and**
- make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

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NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave are required to provide a 30-day advance notice to their supervisors and Human Resources of the need to take FMLA leave when the need is foreseeable and such notice is practicable. In an emergency situation, notice must be given to the employee's supervisor and Human Resources of the need for leave as soon as possible, but not later than 48 hours after the occurrence of the reason for leave.

Employees may be required to provide:

- medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member (parent, spouse, or child);
- second or third medical opinions (at the College's expense) and periodic recertification; and
- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

INTERMITTENT AND REDUCED SCHEDULE LEAVE

Ringling College of Art and Design will allow eligible employees to take FMLA leave on an intermittent basis or to work a reduced schedule under the following circumstances with prior approval:

- when medically necessary to care for a seriously ill family member (parent, spouse, or child); or
- because of the employee's serious health condition; or
- to care for a newborn or newly placed adopted or foster care child.

Employees needing intermittent or reduced schedule leave for foreseeable medical treatment must work with their supervisors to schedule the leave so as not to unduly disrupt the College's operations. Intermittent or reduced schedule leave may be taken in increments as small as quarter hours.

SUBSTITUTION OF PAID LEAVE

Employees are required to use available paid leave to cover some or all of the FMLA leave taken. The paid leave substituted for unpaid FMLA leave qualifies and will be counted toward the employee's FMLA leave entitlement. The paid leave used will not be available later.

FAILURE TO MEET POLICY REQUIREMENTS

If you fail to meet the requirements of this Policy for Family and Medical Leave, your request for leave may be denied or delayed until the requirements are met.

If you have any questions about the operation or interpretation of this Policy, please contact the Office of Human Resources.