

Administrative Procedures	
Procedure No. <b>250.1A</b> Policy No. <b>250</b>	<b>Name of Procedure</b> Family & Medical Leave Procedure

## FAMILY & MEDICAL LEAVE INFORMATION

The Family & Medical Leave Procedure explains the rules, benefits, and leave information for employees that are eligible under the federal [Family & Medical Leave Act](#) and the Washington State [Paid Family & Medical Leave Program](#). This procedure is not intended to increase or alter any rights or responsibilities established by the applicable laws and/or rules governing FMLA and PFML.

### **FAMILY & MEDICAL LEAVE ACT (FMLA)**

The Family and Medical Leave Act is a federal law that guarantees eligible employees up to 12 workweeks of leave within a 12-month period with no threat of job loss. Because leave can be consecutive, intermittent, or a combination of both, use of leave is accounted for on an hourly basis. Eligible employees are entitled to up to 480 hours of FMLA during a 12-month period. For employees who work less than a full-time schedule, the amount of leave will be determined on a pro rata basis and will be determined based on the employee's status at the time of the request for leave.

#### FMLA ELIGIBILITY

An employee is covered by the FMLA if they meet the following eligibility requirements:

1. Have worked for Lower Columbia College or another Washington state agency or institution of higher education for at least 12 months or 52 weeks prior to the date the leave would begin (periods of service prior to a break in service of seven years or longer will generally not be counted toward the 12 months); and,
2. Have worked for the state at least 1,250 hours, including overtime, in the 12 months immediately preceding the date the FMLA leave would begin. Except for military leave, the 1,250-hour requirement does not count unpaid leave and paid time off (i.e. annual leave, sick leave, personal holiday, compensatory time or shared leave); and,
3. Have not already used 12 weeks of FMLA within the last 12 months

*\*Adjunct faculty are eligible for FMLA if they have worked at least 50% of a full load for the three previous consecutive quarters with Lower Columbia College.*

#### TYPES OF FMLA LEAVE

Lower Columbia College will grant up to 12 weeks of job-protected leave within a 12-month period to eligible employees for one or more of the following reasons:

1. **Parental leave for the birth and care of a newborn child in the first 12 months after childbirth**  
*Pregnancy disability leave prior to birth of the child is not deducted from the 12-week parental leave entitlement.*

2. **Placement of a child with the employee for adoption or foster care within the first 12 months of placement**
3. **Caring for an employee's spouse, parent, or child who has a serious health condition**
4. **The employee's own serious health condition**
5. **A qualifying exigency arising out of the fact that a spouse, parent, or child of an eligible employee is on covered active duty or has been notified of pending call to covered active duty in the armed forces**

*Exigency leave only applies if the family member of the employee is a member of the Reserves, National Guard or regular armed forces. In addition, exigency leave only applies to federal calls to active duty and the deployment must be to a foreign country.*

#### **6. Caring for an injured or ill covered service member**

*This leave may extend up to 26 weeks in a 12-month period for an eligible employee whose spouse, parent, child or next-of-kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform the duties of the service member's office, grade, rank or rating. This leave provision also includes veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.*

*During the single 12-month period, an eligible employee is limited to a combined total of 26 weeks of leave for service member caregiver leave and FMLA leave for other qualifying reasons.*

#### *Spouse or Domestic Partner both working at Lower Columbia College:*

If both spouses/domestic partners are employed by Lower Columbia College and wish to take leave for the birth of a child, a newly placed child, or to care for a parent with a serious health condition, the spouses/domestic partners may only take a combined total of 12 weeks of leave. If either party uses a portion of the 12 -week entitlement for any of the above reasons, they would still have their remaining entitlement for other FMLA purposes. If a spouse/domestic partner both work for LCC and each request to take leave to care for a covered injured or ill service member, they may only take a combined total of 26 weeks of leave between the two of them.

#### **FMLA PROCESS**

It is the employee's responsibility to notify their supervisor and/or HR of the need for FMLA-related leave at least 30 days prior to the leave for foreseeable leave and as soon as is practical for unforeseen leave. Employees must provide reasons for the leave to allow HR to determine if the leave qualifies for FMLA leave. The type of certification depends on the FMLA reason. HR will provide the appropriate FMLA forms, information, and guidance about FMLA and the process. The employee must submit FMLA documentation within 15 calendar days from receipt of the forms from Human Resources or provide a reasonable explanation for the delay.

After receipt of complete and sufficient information to determine whether the leave qualifies under FMLA, HR will notify the employee about their eligibility and begin planning for the leave if necessary. The employee needing FMLA leave must follow normal notification procedures for reporting an absence

or period of time off. Employees can use any of their paid leave types, leave without pay, or a combination of both paid and unpaid leave for their FMLA-related absences.

There may be times when employees are absent under circumstances that would qualify as FMLA leave, and the employee has not specifically applied for FMLA leave time. LCC has the right to designate such absences as family and medical leave. If LCC fails to designate the leave properly or timely, the leave may still be designated as FMLA leave retroactively unless the employee suffers injury or harm as a result of the retroactive designation, or if the employee and the employer agree.

#### INTERMITTENT FMLA / REDUCED SCHEDULE

FMLA leave is not always consecutive leave. Intermittent leave or leave on a reduced schedule may be necessary for an eligible employee's own serious health condition, to care for a family member with a serious health condition or military family leave, or to care for a newborn child or a newly placed child. LCC and the employee must mutually agree to the work schedule and duration before the employee may take the leave intermittently or work a reduced schedule.

**1. Faculty Intermittent Leave under FMLA and/or PFML:** When a FT faculty is out on FMLA and/or PFML and they are teaching a reduced schedule (i.e. using intermittent FMLA/PFML), teaching 5-credits (or 4- credits for faculty whose full-time workload is 12 credits) will be treated as 25% of their weekly hours (8.75 hours). Their typical 15-credit workload is 75% of their schedule (26.25 hours). College service will be treated as 25% of their weekly hours (8.75 hours). The college may engage the faculty to take on project work while on intermittent FMLA/PFML, and therefore, if applicable, the hours of absence would be adjusted for that work.

a. Adjunct Faculty FMLA and/or PFML: When an adjunct faculty is out on FMLA/PFML, the weekly hours of leave will be based on hours associated with the credits they teach.

#### PAID FAMILY & MEDICAL LEAVE (PFML)

As of January 2020, Washington is the fifth state in the nation to offer paid family and medical leave benefits to workers. The [PFML Program](#) is funded by premiums paid by both employees and many employers, and is administered by the Employment Security Department (ESD). This insurance program allows workers to take necessary time off for qualifying reasons, and they may receive up to 90% of their wages (or up to \$1,542/week) paid to them through the Employment Security Department. ESD determines whether a claim is approved, how much wage replacement is provided, and how long the absence will be. Denials of claims will be processed through ESD.

The PFML Program operates differently from FMLA. Eligible employees may receive between 12 to 18 weeks of PFML depending on the qualifying condition. PFML can be used consecutively or intermittently as long as there is a minimum of 8 consecutive hours in a week. Here are two examples of 8 consecutive hours of PFML in a week: 8 hours on Thursdays each week; or 4 hours on Tuesdays and 4 hours on Thursdays each week. For a personal medical *and* a family event within a 12-month period, the employee could be absent up to 16 weeks. For pregnancy-related leave, employees may be absent up to 18 weeks.

An employee may return to the same or an equivalent position if the employee has worked 1,250 hours for the State of Washington in the previous 12 months. However, job restoration may be denied if the employee would have been separated when they are on leave.

#### PFML ELIGIBILITY

The Employment Security Department is responsible for determining employees' eligibility for PFML. However, here is the criteria it will be using:

1. The employee has worked a minimum of 820 hours in Washington within the preceding four quarters. The 820 hours can be at one Washington employer or combined from multiple jobs in Washington
2. The employee is experiencing a qualifying PFML event
3. The employee has not used 12 weeks of PFML (or 18 weeks for pregnancy) for the same event within the last 12 months.

The College reports employee hours in accordance with [WAC 192-540.040](#).

*\*For adjunct faculty, the percentage of full-time workload will be used to determine PFML eligibility ([RCW 28B.50.489](#)).*

#### *Out-of-State Employees & PFML*

Employees who live outside of Washington and work 100% remote outside of Washington are not localized to Washington, and therefore, ineligible for PFML through Washington's ESD and do not have WA PFML premiums deducted from their paychecks and the College does not report hours worked to ESD for PFML purposes. However, LCC employees who are Oregon residents and work 100% remote in Oregon may be eligible for Paid Leave Oregon. These employees have the OR paid leave deduction taken out of their checks. HR and Payroll coordinate paid leave deductions based on employee's telework agreements.

#### TYPES OF PFML LEAVE

ESD determines qualifying events for PFML.

1. **Medical Leave:** A serious health condition that prevents you from working may qualify you for PFML. Some examples of serious health conditions include: surgery, ongoing medical condition, bed rest due to pregnancy and birth, and treatment for a chronic health condition, mental health, or substance abuse.
2. **Family Leave:** If your family member has a serious health condition, injury, or is in the military, or you're welcoming a new baby or child into your family, you may qualify for PFML to be with them.
  - a. You may also use family leave for the seven days following the loss of a child if you meet requirements outlined on the [PFML website](#).
3. **Military Leave:** You may be able to use PFML if your family member is in the military and is about to be deployed overseas or is returning from overseas deployment.

**Qualifying family members under PFML include:** spouses and domestic partners, children (biological, adopted, foster, stepchild, legal guardian, de factor or loco parentis), parents and legal guardians (or spouse's parents), siblings, grandchildren, grandparents (or spouse's grandparents), son-in-law and

daughter-in-law, and someone who has an expectation to rely on you for care—whether you live together or not. Documentation about the relationship to the person may be required.

#### PFML PROCESS

Because ESD administers PFML, employees are responsible for applying for PFML through ESD and providing required documentation and information to ESD as well Lower Columbia College Human Resources. ESD will not be providing information on the employee's behalf nor will the College have access to the information employees provided to ESD.

#### *Notice*

Employees are required to provide 30 days' written notice to the College for foreseeable leave or as soon as is practical for leave that is unplanned. E-mail, letter, text message, and hand-written notes are all acceptable forms of written notice. If an employee is unable to provide the notice due to an unforeseeable event, someone else may provide the notice to the College on their behalf.

#### *Documentation*

Medical documentation (i.e. doctor's note) must be provided prior to the absence for foreseeable events or as soon as practical for unplanned events. For employees that are pursuing FMLA and PFML concurrently, FMLA documentation is sufficient for the leave of absence. For military leaves of absence, active duty orders can be submitted to verify the need for the leave of absence.

#### *Reporting, Paid Leave, & Supplemental Benefit*

Employees are required to follow normal reporting procedures for their PFML-related absences.

Employees may use paid leave to supplement their PFML benefit. Employees are not required to use paid leave to supplement their wage replacement through ESD. Use of paid leave as a supplemental benefit will not be considered wages and employees will not need to report use of paid leave to ESD.

All paid leave types are considered part of the supplemental benefit (sick leave, vacation leave, compensatory time, personal days, bereavement leave, and paid holidays) except shared leave. Shared leave will still need reported as wages earned to ESD. Use of shared leave and PFML in the same weeks will impact the PFML benefit amount received from ESD.

## OTHER INFORMATION ON FMLA & PFML

#### HUMAN RESOURCES' ROLE IN FMLA / PFML REQUESTS

Human Resources is responsible for ensuring leave is administered in good faith and consistent with the rights and responsibilities provided by the statute. HR is also responsible for providing information and training specific to these rights and responsibilities. HR will work with supervisors regarding their employee's FMLA and/or PFML.

Supervisors are responsible for referring potentially eligible faculty and staff to HR so HR can provide guidance and resources for FMLA and PFML. Additionally, supervisors are responsible for notifying HR about any changes in statuses or return to work dates for their employees. Supervisors should not keep any employee's medical documentation—all medical documentation is to be maintained in the HR office.

## SENIORITY

For Faculty and Classified employees, seniority may be affected by the number of leave without pay days within a month timeframe (see Faculty Contract and WFSE for seniority rules) due to FMLA and/or PFML leaves of absences.

## BENEFITS / ACCRUALS

To maintain PEBB benefits, the employee must have worked 1,250 hours in the previous 12 months or have at least eight hours in paid status each month. PFML is not considered paid status under the PEBB benefit rules. Employees may elect to use at least eight hours/month of paid leave to maintain benefit eligibility. Depending on the employee's medical plan, they may still need to pay their premium out of pocket. HR will notify the employee about their responsibility to pay for their healthcare benefits.

When an FMLA or PFML leave of absence results in more than 15 days of leave without pay in a month, employees will not receive their paid leave accruals for that month.

Employees participating in a retirement plan administered through the Department of Retirement Systems (DRS) will not receive retirement service credit during the time period they are receiving wage replacement through PFML.

## RETURNING TO WORK

Employees may be required to provide medical documentation that shows their ability to return to work. Following an FMLA or PFML leave of absence, employees may return to the same or equivalent position as long as they have worked 1,250 hours within the last 12 months unless their job was expected to end while they were on leave.

An employee returning from FMLA or PFML has no greater entitlement to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave period.

## CONFIDENTIALITY

All information relating to requests for FMLA and PFML will be treated in a confidential manner and will be used only to make decisions in regards to the request for the leave. Medical information will be maintained in a confidential file separate from the employee's personnel file.

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