6.1. POLICY 938 – FAMILY MEDICAL LEAVE – REVISED – FIRST READING

Policy 938 – Family Medical Leave is presented for a First Reading. Revised language of this policy provides greater consistency and clarity regarding family medical leave and aligns with the federal and state statutes of Family and Medical Leave Act (FMLA).

The policy has been reviewed by the College's legal counsel and vetted through CLC's shared governance system, which includes representation from all impacted staff.

Recommended changes are highlighted in red and reflect changes presented as the First Reading. No action will be taken at this time.

938 FAMILY AND MEDICAL LEAVE ACT

The College recognizes the importance ~~value~~ of providing eligible employees with leave for qualifying family and medical reasons. Family and medical leave shall be provided in accordance with the federal Family and Medical Leave Act (FMLA), the State of Illinois Family and Medical Leave Act (ILFMLA) and the provisions of this policy. ~~leave opportunities to employees which enable them to participate in the early child rearing of their children and to care for family members with serious health conditions, or to be absent from work due to their own serious illness without being forced to choose between such family obligations and their job security. For the purposes of this policy, a family member is defined as a spouse, son, daughter, parent, or civil union partner. In accordance with State and Federal Family and Medical Leave Acts, eligible College of Lake County employees shall be entitled to Family Medical Leave, on a gender neutral basis, provided the leave is taken pursuant to the following provisions:~~

A. ~~B.~~ Employee Eligibility

1. An employee who has been employed for at least twelve (12) months, has worked at least 1,000 ~~1,250~~ hours during the previous twelve (12) month period, shall be entitled to twelve (12) weeks of unpaid leave during a rolling twelve (12) month period measured backward from the date an employee uses any FMLA ~~Family Medical Leave~~. Such leave shall be administered by ~~the~~ Human Resources ~~Department~~ in accordance with f~~F~~ederal and s~~S~~tate statutes. ~~The Board of Trustees shall receive annual reports regarding FMLA leaves.~~
2. An employee who has been employed for at least twelve (12) months, has worked at least 1,000 ~~1,250~~ hours during the previous twelve (12) month period and who is the spouse, son, daughter, parent or next of kin of a covered military service member shall be entitled to a total of twenty-six (26) weeks of leave during a twelve (12) month period to care for a covered military service member. Such leave shall be administered by ~~the~~ Human Resources ~~Department~~ in accordance with f~~F~~ederal and s~~S~~tate statutes.

B. ~~A.~~ Leave Reasons ~~Purpose of the Leave~~

Eligible employees may take FMLA ~~shall be allowed Family Medical Leave~~ for one (1) or more of the following qualifying reasons:

1. ~~Because of t~~The birth of a child of the employee and to care for such child;
2. ~~Because a~~ The placement of a child with the employee ~~has been~~

~~placed with the employee~~ for adoption or foster care and to care for the newly placed child;

3. To care for a spouse, child or parent with ~~family member of the employee (as defined herein) who suffers from~~ a serious health condition; or
4. ~~Because of a~~ The employee's own serious health condition that makes the employee unable to perform the essential functions of their ~~his/her~~ position.
5. A qualifying exigency arising from the employee's spouse, child, or parent being on covered active duty in the armed forces; or care for a covered military service member's spouse, child, parent, or next of kin.~~Because the spouse, son, daughter, parent or next of kin of an employee is on active duty or has been notified of an impending call or order to active duty in the armed forces in support of a contingency operation.~~

C. Leave Terms

1. Employees must provide a qualifying reason for the requested leave to enable the College to determine whether the leave qualifies under this policy and applicable law.
2. Leave for the birth or placement of a child must be completed within one (1) calendar year after the date of birth or placement.
3. Leave of up to twelve (12) weeks may be taken intermittently or on a reduced schedule if medically necessary for the employee's own serious health condition or to care for a qualifying family member with a serious health condition.
4. Employees are required to use all available accrued paid time off concurrently with FMLA leave and the time off will count toward the employee's twelve (12) week FMLA entitlement, in accordance with applicable College policy and law.

D. Employee Notice Requirements

Employees must provide thirty (30) days advance notice of foreseeable leave whenever practicable; otherwise, notice must be given as soon as practicable. When the need for a leave is foreseeable, the employee is required to notify their supervisor and Human Resources of their intention to take leave pursuant to this policy. If notice is not practicable, the employee must provide notice as soon as practicable. Failure to provide timely notice of foreseeable leave may result in a delay of FMLA leave being approved until complete FMLA documentation is received, consistent with applicable law.

E. Certification Requests

The College will require an employee requesting FMLA leave to provide certification from the appropriate health care provider or legal documentation in the case of adoption or foster care.

1. For foreseeable leaves, certifications shall be provided to Human Resources within fifteen (15) calendar days from the date the College requests such certification or as soon thereafter as practicable.
2. For unforeseeable leaves, the employee is required to provide certification as soon as is practicable, under the particular circumstances, after the date the College requests such certification.
3. In cases where the College has reason to doubt the validity of a medical certification, it may require the employee to obtain a second opinion, at the College's expense.
4. The College reserves the right to require certification at any time if it has reason to question the validity, appropriateness or duration of a leave, even when the certification was not initially required to support the leave request.
5. For foreseeable leave requests, the College may delay or deny approval of the leave until the required certification is provided.
6. For unforeseeable leave requests, the College may deny continuation of the leave until the employee submits the requested certification. Failure to provide timely and complete certification may result in the denial, delay, or discontinuation of leave protections and benefits associated with the leave.
7. The College may request recertification at reasonable intervals, but not more than once every thirty (30) days. The College may request recertification, regardless of the length of time since the last request, for the following:
    a. When the employee requests a leave extension;
    b. When the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); or
    c. When the College receives information that casts doubt upon the continuing validity of the original certification.

F. Maintenance of Health Benefits

The College shall maintain the eligible employee's existing group health and

insurance coverage for up to twelve (12) weeks or up to twenty-six (26) weeks for FMLA related to a covered military service member. Coverage will be provided at the same level and under the same conditions as if the employee has remained actively employed and has not taken leave.

1. If the employee uses accrued paid leave during this period, the employee remains responsible for their standard applicable share of group health and insurance premiums.
2. If the employee is on unpaid leave, the College will continue to pay its employer-paid share of applicable, group health and insurance premiums. The employee is responsible for timely payment of their employee-paid share of premiums directly to the College in accordance with established procedures.

G. Return to Employment

At the end of the leave period taken pursuant to this policy, the employee shall be returned to the position held immediately prior to taking the leave. If that position is unavailable, the College shall return the employee to an available position the employee is qualified to hold with equivalent pay and benefits and other terms and conditions of employment. The right to reinstatement ceases and the employment relationship between the employee and the College will be deemed terminated if the employee unequivocally informs the College of their intent not to return to employment at the end of the leave period.

Employees who take leave for their own serious health condition must provide a written medical release from their health care provider before returning to work. The certification must confirm the employee's ability to resume work and perform the essential functions of their position, with or without reasonable accommodation, as applicable. The College reserves the right to delay an employee's return to work until the required certification has been received and reviewed. An employee will not be permitted to return to work until the required medical clearance has been provided.

If unable to return to work the employee may consider requesting Post Family and Medical Leave (Post-FML), seek an accommodation under the Americans with Disability Act (ADA) or apply for long-term disability through the College and SURS if applicable.

~~***938. 1 COLLEGE EXTENDED FAMILY MEDICAL LEAVE***~~

~~An employee who has been employed by the College on a continuous full-time basis for at least thirty-six (36) months shall be eligible for up to nine (9) months of unpaid leave immediately following exhaustion of the twelve (12) week Family Medical Leave Act leave period. An employee who has been employed by the College on a continuous basis for less than thirty-six (36) months, but more than one (1) year, may be granted one (1) year of unpaid leave (which includes the twelve (12) weeks required by the Family Medical leave Act) due to extenuating circumstances on a non-precedential basis. Granting a leave for more than twelve (12) weeks in duration within a fiscal year shall be submitted to the Director of Human Resources, and such leave shall be administered by the Human Resources Department, in accordance with Federal and State statutes. Such unpaid leave beyond the mandated FMLA leave twelve (12) weeks shall be referred to as "938.1 Leave or "College Extended Family Medical Leave". The granting or denial of "938.1 Leave" shall be non-precedential. The Board of Trustees shall receive annual reports regarding FMLA leaves.~~

~~**C. Terms of Leave**~~

1. ~~The employee must state a qualifying reason for the needed leave to allow the College to determine whether the purpose for the leave is allowable.~~

2. ~~The entitlement to leave because of the birth or placement of a child expires one (1) calendar year after the date of birth or placement.~~

3. ~~The combined total Family Medical Leave for CLC employees who are married to each other or who are civil union partners may not exceed twelve (12) weeks during the applicable leave period for the birth of a child, or placement of a child for adoption, foster care, or to care for a family member with a serious health condition. The combined total "post family medical leave" for CLC employees who are married to each other may not exceed one (1) year during the applicable period for the birth of a child, or placement of child for adoption, foster care, or to care for a family member with serious health condition.~~

4. ~~Leave of up to twelve (12) weeks may be taken on an intermittent basis (in separate blocks of time due to a single illness or injury) or a reduced schedule (reducing the number of hours per week or per day) if medically necessary when the purpose of the leave is to care for a seriously ill family member or because of the employee's own serious health condition.~~

5. ~~If the employee requests paid accrued leave and the College determines the purpose of the leave is applicable under this policy, the College shall notify the employee that paid leave must be utilized prior to any unpaid leave and~~

~~will be counted against the twelve (12) weeks of leave granted under this policy. This notice shall be made before the leave begins or before a leave extension is granted, unless the College does not have sufficient information to determine the reason for the leave until after the leave has begun or has been given insufficient notice by the employee.~~

~~D. Notice Requirements~~

~~When the need for a leave is foreseeable, (i.e., based upon an expected birth or placement for adoption, for foster care, or planned medical treatment for the employee or the employee's seriously ill family member), the employee is required to notify his/her supervisor and the Executive Director of Human Resources, or designee, not less than thirty (30) days before the date the leave is to begin of his/her intention to take leave pursuant to this policy. If the circumstances (i.e., date of birth or planned treatment) require the leave to begin in less than thirty (30) days, the employee shall notify his/her supervisor and the Executive Director of Human Resources, or designee, as soon as practicable. The employee shall make a reasonable effort to schedule the planned treatment so as not to unduly disrupt operations, subject to the approval of the health care provider involved in administering the treatment. The College may deny an employee's leave request until at least thirty (30) days after the date the employee provides notice of the intention to take leave for unreasonable failure to provide timely advance notice for foreseeable leaves.~~

~~E. Medical Certification~~

~~The College will require requests seeking leave to care for a seriously ill family member or because of the employee's own serious health condition be supported by medical certification from the family member's or the employee's appropriate health care provider. For foreseeable leaves, the certifications shall be provided the Executive Director of Human Resources, or designee, within fifteen (15) calendar days from the date the College requests such certification or as soon thereafter as practicable. For unforeseeable leaves, the employee is required to provide certification as soon as is practicable, under the particular circumstances, after the date the College requests such certification.~~

~~Certification shall contain the following:~~

~~1. The date the serious health condition began;~~

~~2. The physician's best medical judgment concerning the probable duration of the condition;~~

3. A diagnosis of the condition and a brief statement of the prescribed regimen, including whether inpatient hospitalization is required;

4. If the purpose of the leave is to care for a seriously ill family member, a statement that the employee is needed to care for the family member including an estimate of the amount of time the employee will be needed;

5. If the purpose of the leave is because of the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her position;

6. In the case where intermittent or reduced schedule leave is required for planned medical treatment, a statement of the dates and duration of such treatment;

7. In the case where intermittent or reduced schedule leave is requested to care for a seriously ill family member or because of the employee's serious health condition, a statement that the intermittent or reduced leave schedule is medically necessary, as to the seriously ill employee or necessary for the care of the family member, including the expected duration of its necessity.

In cases where the College has reason to doubt the validity of a medical certification, it may require the employee to obtain a second opinion, at College expense. The College shall select the physician to supply the second opinion. In cases where the medical opinion in the first and second certifications conflict, the College may require the employee to obtain a third certification, at College expense. The third physician shall be jointly selected by the College and the employee and the third certification shall be final and binding upon both the College and the employee.

The College reserves the right to request certification at a later date in cases where it does not initially request medical certification to support the leave request but it later has reason to question the appropriateness or duration of the leave. The College may deny a leave request, for foreseeable leaves, or deny continuation of leave, for unforeseeable leave, until the employee provides the required certification.

F. Medical Recertification

The College may request recertification at reasonable intervals, but not more than once every thirty (30) days. The College may request recertification, regardless of the length of time since the last request, for the following:

1. When the employee requests a leave extension;

2. When the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); or

3. When the College receives information that casts doubt upon the continuing validity of the original certification.

G. Return to Employment

At the end of the leave period taken pursuant to this policy, the employee shall be returned to the position held immediately prior to taking the leave. If that position is unavailable, the College shall return the employee to an available position the employee is qualified to hold with equivalent pay and benefits and other terms and conditions of employment. The right to reinstatement ceases and the employment relationship between the employee and the College will be deemed terminated if the employee unequivocally informs the College of his/her intent not to return to employment at the end of the leave period.

The College shall require the employee to submit medical certification from his/her health care provider that the employee is now able to resume work if the basis for the leave was the employee's own serious health condition that made the employee unable to perform the functions of his/her job. The College shall deny the employee's return to work until the certification is submitted.

The right to reinstatement also ceases if the employee is unable to perform the essential functions of his/her position at the end of the leave period. In such cases, the employee shall submit medical certification as stated previously in this policy. In cases where the College has reason to doubt the validity of a medical certification, it may require the employee to obtain a second opinion, at College expense. The College shall select the physician to supply the second opinion. In cases, where the medical opinions in the first and second certifications conflict, the College may require the employee to obtain a third certification, at College expense. The third physician shall be jointly selected by the College and the employee and the third certification shall be binding upon both the College and the employee.

H. Maintenance of Health Benefits

The College shall maintain the eligible employee's existing group health plan coverage for up to twelve (12) months. Such health plan coverage shall be at the same level and under the same conditions coverage would have been provided

~~had the employee not taken the leave. The College's flexible compensation allocation shall not be continued during the period of unpaid leave. Therefore, the employee shall be responsible for his/her applicable share of dependent health care premiums. In cases that do not involve a leave for a serious health condition that makes the employee unable to perform the functions of his/her position, the College may recover from the employee, its share of any premium payments for any period of unpaid leave if the employee fails to return to work after their leave entitlement has been exhausted. The College may also recover any portion of the premium it paid which the employee was obligated to pay.~~

~~Employees that substitute paid leave for unpaid leave under this policy, will have their share of the health care premiums paid by the method the College normally utilizes during any employee's paid leave. If the leave is unpaid, the employee shall pay his/her share of the premium under the College's existing procedures for employees on unpaid leave.~~

~~**I. Status of Other Benefits**~~

~~With the consent of the insurance carriers, the existing level of coverage for dental insurance, life insurance and disability insurance may be continued atthe College's expense for those taking a leave of twelve (12) weeks, or fewer. For those requesting "post family medical leave," basic life and disability insurance may be continued at the College's expense. However, continuation of dental insurance and any optional coverages for life and/or disability shall be at the employee's expense.~~

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