POLICY

Title: Family and Medical Leave
Number: AP 4.04
Adopted: May 2007
Reviewed: April 2017
Revised: April 2017

Nicolet College complies with the state of Wisconsin and the federal Family and Medical Leave laws. All employees must consult with the Director of Human Resources or designee before going on Family and Medical Leave, or as soon as possible if due to an emergency or unforeseeable circumstance. Taking leave under this policy will not be used against an employee in any employment decisions including the determination of raises or discipline.

There may be times when an employee uses leave provided by the College which will qualify as Family and Medical Leave even though the employee has not specifically applied for Family and Medical Leave. The College has the right to designate such absences as Family and Medical Leave if the contractual leave used is no more restrictive than that provided by law. If an employee's absence is designated as Family and Medical Leave, they will be contacted by the Director of Human Resources or designee.

Eligibility

Federal: An employee is eligible for federal Family and Medical Leave if he/she has worked for Nicolet College for at least 12 months and at least 1,250 hours within the previous 12-month period. The federal Family and Medical Leave Act (FMLA) provides for up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for the employee’s own serious health condition; the serious health condition of an employee's spouse, dependent child, or parent; the birth, adoption, or foster placement of a child with the employee; or for a qualifying exigency, as described below. The employee will be required to use available sick leave during federal FMLA before any time can be taken unpaid. However, the employee may also choose to substitute available vacation or personal leave for sick or unpaid leave.

Eligible employees whose spouse, son, daughter, or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

In addition, eligible employees may take up to 26 weeks of unpaid leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current 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*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

*The FMLA definitions of “serious injury or illness” for current servicemembers and veterans are distinct from the FMLA definition of “serious health condition.”

**State:** An employee is eligible for Wisconsin Family and Medical Leave (WI FML) if the employee has been on the Nicolet College payroll for 52 consecutive weeks, and has worked at least 1,000 hours in the preceding 52-week period. Employees eligible for WI FML may take up to two weeks of leave for the employee’s own serious health condition; two weeks for the serious health condition of an employee’s spouse, domestic partner, dependent child, parent or parent-in-law (including a domestic partner’s parent); and six weeks for the birth or adoption of the employee’s child. Under WI FML employees may not take more than eight weeks of leave in a calendar year for any combination of the above entitled leave. The employee may choose to substitute available vacation, sick, or personal leave for unpaid leave.

**Intermittent Leave or Reduced Leave Schedule**

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. Intermittent leave may or may not be regularly scheduled. A reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday. Employees must give a 30-day notice for intermittent FMLA leave that is foreseeable, or as much notice as practicable if it is not possible to give a 30-day notice. If the need for intermittent FMLA leave is unforeseeable, the employee must give notice as soon as practicable. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the College. An employee may request intermittent FMLA for the birth or adoption of a child. However, such requests may not be granted in all instances.

**Notice and Certification**

Nicolet administers its 12-month period for the federal FMLA on a rolling backward schedule (12 months measured backwards from the date of any FMLA usage). WI FML entitlement runs on a calendar year. Leave which qualifies under both the federal and state FMLA is to be used simultaneously. An employee wishing to take FMLA leave must notify Human Resources, who will determine the employee’s eligibility and provide the employee with the necessary paperwork. When the leave of absence is foreseeable, the College requests employees give a 30-day notice. If it is not possible to give a 30-day notice, the employee must give notice as soon as practicable.
The College may require medical certification to support a request for leave due to a serious health condition, and may require second or third opinions (at the expense of the College). In cases of an employee’s serious medical condition, a return-to-work document signed by the physician or health care provider will be required before an employee may return to work.

It is not necessary for an employee to disclose the nature of their “serious health condition” to their supervisor or to the Director of Human Resources or designee. Medical certification from the employee’s health care provider will serve to confirm his/her eligibility for medical leave. However, any information an employee provides will remain confidential.

Benefits during Leave

During FMLA leave, an employee’s group health benefits will be maintained, provided that the employee continues to pay the required employee premium contributions during the leave. If a required employee contribution is more than 30 days late, the employee’s health care coverage will terminate. Additional information regarding premium payments will be provided by Human Resources upon an employee’s request for leave.

Return to Work

An employee returning from FMLA leave is entitled to be reinstated to the employee’s prior position, or if that position is no longer available, an equivalent position with the same pay, benefits, and other terms and conditions of employment. Employees’ benefits will be reinstated after FMLA leave as though a leave had not been taken. If an employee wishes to return to work before the leave was to end, the employee must notify Human Resources at least two days prior to the desired return date. In the case of a serious medical condition, a return to work form signed by the employee’s physician or health care provider is required.

Failure to Return after FMLA Leave

If an employee, without approval from the Director of Human Resources, does not return from FMLA leave on the day indicated on the original application or in any approved change of that date, the employee will be considered to have voluntarily resigned from employment with the College as of the day on which the employee’s FMLA was to end. In the event this occurs, the College reserves the right to collect from the employee any employer-paid benefits payments made while the employee was on leave, unless the employee’s failure to return to work is due to circumstances outside of the employee’s control (e.g., the continued serious health condition prevents returning to work).

Failure to Meet Policy Requirements

If an employee fails to meet the requirements laid out in this policy, the request for FMLA may be denied or delayed until the requirements are met.

All campus buildings have posted information on Wisconsin and federal laws. Contact Human Resources for additional information.