POLICY: 6Hx28:3D-06.1

Responsible Executive: Vice President, Organizational Development & Human Resources

Policy Contacts: Assistant Vice President, Human Resources

Specific Authority: 1001.64, F.S.
Law Implemented: Family and Medical Leave Act of 1993 (P.L. 103-3) 107 Stat.6; Dept. of Labor, Wage and Hour Division, Rules 29 CFR Part 825

Effective Date: 12-01-2022

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Family and Medical Leave

Policy Statement:

I. Valencia College ("College") provides eligible employees the opportunity to access job-protected leave benefits made available in accordance with the Family and Medical Leave Act of 1993 (FMLA). The FMLA entitles eligible employees to take reasonable unpaid leave to balance the demands of the workplace with the needs of families.

II. The College President or designee(s) shall establish procedures to implement this policy.

Policy History:

Adopted 2-16-94; Amended 11-20-96; Amended 4-16-13; Amended 9-27-17; Amended 12-01-22; Formerly 6Hx28:07-38; Formerly Family/Medical Leave

Related Documents/Policies:

College Policy 6Hx28: 02-02 Workplace Accommodations for Applicants and Employees

College Policy 6Hx28: 3C-08 Total Rewards: Employee Benefits

College Policy 6Hx28: 3D-03 Total Rewards: Vacation, Sick and Personal Leave for Full Time Employees

College Policy 6Hx28: 3D-06.1.1 Paid Parenting Leave for Full-Time Employees

College Policy 6Hx28: 3E-08 Disciplinary Action

College Policy 6Hx28: 3F-05.2 Abandonment of Position

Procedures:

I. Employee Eligibility, FMLA Qualifying Reasons, and Length of Time for Qualifying Leave

A. In order for a full-time or part-time employee of the College to be eligible for FMLA leave, the employee must have worked for the College for a total of twelve (12) months and have worked 1,250 hours within the year preceding the commencement of the FMLA leave. The twelve (12) months of employment do not have to be consecutive; however, a continuous break in service of seven (7) years or more will initiate a new period of earning twelve (12) months of qualifying service.

B. An eligible employee is entitled to take up to twelve (12) workweeks of unpaid FMLA leave within a twelve (12) month period for the following qualifying reasons as defined by law:

1 The birth of an eligible employee's child and/or to care/bond with the child within one year of the child's birth;

2 The placement of a child with the eligible employee for adoption or foster care and to care for the newly placed child within one year of placement;

3 The care of the eligible employee's spouse, child, or parent who has a serious health condition; and/or

4 A serious health condition that renders the eligible employee unable to perform the essential functions of their job.

See Procedure II for FMLA military related qualifying reasons and length of eligible FMLA leave time (e.g., Military Qualifying Exigency Leave and Military Caregiver Leave).

C. A twelve-month period is defined as any rolling twelve-month period measured backward from the first date the FMLA leave is used.

D. Additional information regarding the definitions of eligible child, spouse, etc. are found on the FMLA application materials that are provided to an employee requesting FMLA leave.

E. Spouses who are both employed by Valencia College and are both eligible for FMLA leave may be limited to a combined total of twelve (12) weeks of leave during any 12-month period if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's child, or to bond/care for the child after the birth, or for the placement of a child with the employee for adoption or foster care or to bond/care for the child after placement.

II. Military Qualifying Exigency Leave and Military Caregiver Leave

A. Military Qualifying Exigency Leave: As defined by law, an eligible employee is entitled to take up to twelve (12) workweeks of unpaid FMLA leave during a twelve (12) month period for any qualifying exigency arising out of the fact that the eligible employee's spouse, child, or parent is a servicemember on covered active duty. Military Qualifying Exigency Leave is for the eligible employee to deal with "qualifying exigencies" caused by the servicemember being called to active duty, the servicemember being notified of an impending call or order to covered active duty, or the servicemember is on covered active duty.

1 Covered active duty means:

a Members of the Regular Armed Forces: duty deployment to a foreign country; or

b Members of the Reserve components of the Armed Forces (members of the National Guard and Reserves): duty deployment to a foreign country under a call or order to active duty in support of specified contingency operations.

2 Military Qualifying Exigencies mean:

a Short-notice deployment: When a servicemember is notified of an impending call or order to active duty seven (7) or fewer calendar days from the date of deployment. An eligible employee may take Military Qualifying Exigency Leave for a period of seven (7) calendar days beginning on the date the servicemember is notified of the impending deployment to address any items that arise from the short-notice deployment.

b Military events and related activities: To attend official events, ceremonies, or programs sponsored by the military that are

related to the servicemember's deployment, or to attend similarly related family support or assistance programs, or informational briefings sponsored by the military, one of its service organizations, or the American Red Cross.

c Childcare and school activities: For certain childcare and school activities necessitated by active duty or the call to active duty status of a covered servicemember, including to arrange for alternative childcare; to provide childcare on an urgent, emergency need (but not routine, regular, or everyday) basis; to enroll or transfer a child in a new school or day care facility; or to attend meetings with staff. Such meetings may include and are not limited to: parent-teacher conferences, meetings with school counselors, or meetings with school officials regarding disciplinary measures. Note: The eligible employee taking Military Qualifying Exigency Leave does not need to be related to the military servicemember's child. However, (1) the servicemember must be the parent, spouse, or child of the employee taking FMLA leave, and (2) the child must be the child of the servicemember (including a child to whom the servicemember stands *in loco parentis*). Standing *in loco parentis* is defined by law as referring to a person that provides day-to-day care or financial support for a child. Factors for consideration of *in loco parentis* status include the age of the child; the degree to which the child is dependent on the person claiming to be standing in loco parentis; the amount of support provided, if any; and the extent to which duties commonly associated with parenthood are exercised.

d Parental care: For certain activities for the servicemember's parent, who is incapable of self-care. Such activities include: arranging for alternative care; providing care on a non-routine, urgent, immediate need basis; admitting or transferring a parent to a new care facility; and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers. Note: The eligible employee taking Military Qualifying Exigency Leave does not need to be related to the servicemember's parent. However, (1) the servicemember must be the parent, spouse, child of the employee taking FMLA leave, and (2) the parent must be the parent of the servicemember (including an individual who stood in loco parentis to the servicemember when the servicemember was a child).

e Financial and legal arrangements: To make or update financial or legal arrangements to address a covered servicemember's absence while on active duty, including and not limited to: preparing and executing financial and healthcare powers of attorney; enrolling in the Defense Enrollment Eligibility Reporting System (DEERS); obtaining military identification cards; preparing or updating a will or living trust; or obtaining, arranging, or appealing military service benefits.

f Counseling: To attend counseling provided by someone other than a health care provider for the eligible employee, the covered servicemember, or the servicemember's child, if the need for counseling is due to the active duty of the servicemember.

g Rest and recuperation: To take up to fifteen (15) calendar days of FMLA leave to spend time with a covered servicemember who is on a short-term, temporary Rest and Recuperation leave during a period of deployment. This type of FMLA leave may be taken in a continuous block of time or intermittently during the period of the servicemember's Rest and Recuperation leave.

h Post-deployment activities: To attend certain post-deployment activities, such as arrival ceremonies and reintegration briefings and any other official ceremony, event, or program sponsored by the military for ninety (90) calendar days following the termination of the active duty; and to address items arising from the death of a covered servicemember, including attending funeral services and funeral related matters.

i For certain additional activities arising out of a covered servicemember's active duty or call to active duty where the College and employee both agree on the timing and duration of the Military Qualifying Exigency Leave.

B. Military Caregiver Leave: As defined by law, an eligible employee is entitled to take up to twenty-six (26) workweeks of unpaid FMLA leave during a twelve (12) month period to care for a covered servicemember with a serious injury or illness when the eligible employee is the spouse, child, parent, or next-of-kin of the servicemember ("Military Caregiver Leave").

1 An eligible employee is limited to a combined total of twenty-six (26) workweeks of FMLA leave for all qualifying reasons during that single twelve (12) month period. For example, an employee may take ten (10)

weeks FMLA leave for their own serious health condition and sixteen (16) weeks of Military Caregiver Leave to care for a covered servicemember.

a The single twelve (12) month period for leave is applied on a per-covered servicemember, per-injury or illness basis. There may be circumstances where multiple instances of Military Caregiver Leave may be applied. For example, an eligible employee may take more than one period of twenty-six (26) workweeks of leave to care for a different eligible servicemember or to care for the same servicemember with a different serious injury or illness. However, no more than twenty-six (26) workweeks of leave may be taken within any single twelve (12) month period.

2 Military Caregiver Leave is for the care of the servicemember who is either:

a A member of the Armed Forces, including the National Guard and Reserves, who is undergoing medical treatment, recuperation, or therapy, is in outpatient status or is on the temporary disabled retired list due to a serious injury or illness that occurred while on active duty; or

b 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, who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

III. Employee Request for FMLA Leave

A. When an employee becomes aware of the need for FMLA leave, including Military Caregiver Leave and Military Qualifying Exigency leave, and/or the employee has specific FMLA eligibility questions, the employee should contact Organizational Development and Human Resources (ODHR) either in person, telephonically, via e-mail or through their supervisor. Upon receipt of the request, ODHR will determine whether the employee meets the established qualifying criteria for FMLA leave. Requests for FMLA leave must be made at least thirty (30) calendar days in advance where the leave is foreseeable. Where the need for FMLA leave is foreseeable and an eligible employee does not comply with the thirty (30) calendar day advance notice, the eligible employee may have their FMLA leave delayed and may be required to explain why it was not practicable for them to give a full thirty

(30) calendar day notice. Where the FMLA leave is not foreseeable, the request should be made as soon as practicable. This notice period does not apply to requests for Military Caregiver Leave and Military Qualifying Exigency Leave.

B. Required Documentation: In all cases, within five (5) business days of the receipt of the request for FMLA leave, ODHR will forward the required documentation to the eligible employee for the review, completion, and submission of appropriate documents:

    1 For Review:

        a Notice of Eligibility & Rights

        b Position job description (as appropriate)

        c Copy of College Policy 6Hx28: 3E-06.1 Family and Medical Leave

        d Copy of College Policy 6Hx28: 3E-06.1.1 Paid Parenting Leave for Full-Time Employees (as appropriate)

    2 For completion and submission (as appropriate):

        a Application for Family and Medical Leave

        b Certification of Health Care Provider for Employee's or Family Member's Serious Health Condition under the Family and Medical Leave Act

        c Certification for Military Leave for Qualifying Exigency under the Family and Medical Leave Act

        d Certification for Serious Injury or Illness of a Current Servicemember or Veteran for Military Caregiver Leave under the Family and Medical Leave Act

        e Sick Leave Pool form

C. Submission of documents: An eligible employee will need to submit a completed FMLA application and the required corresponding certification(s) within fifteen (15) calendar days of the College's request unless impracticable due to extenuating circumstances, which must be communicated to ODHR in a timely manner. Absent such extenuating circumstances, if the required documentation is not submitted to ODHR within the allotted timeframe, the leave may not be considered under

FMLA or the College may designate FMLA leave as deemed appropriate based on available information.

IV. Preliminary designation: Where the need for FMLA leave is immediate, and upon receipt of sufficient information supporting the eligible employee's request, ODHR may make a preliminary designation as appropriate based on the available information. A final determination will be made by ODHR after receipt and evaluation of all required supporting documentation.

V. Employee Notification

A. Upon determination that the leave qualifies as FMLA, Military Caregiver Leave or Military Qualifying Exigency Leave, ODHR will notify the eligible employee within five (5) business days, absent extenuating circumstances, that the leave is so designated as FMLA leave.

B. Upon determination that the leave may not qualify as FMLA, Military Caregiver Leave or Military Qualifying Exigency Leave, the eligible employee will be notified in writing. If there are any problems with the information that was received or if additional information is required, the eligible employee will be given seven (7) calendar days to supplement the certification with the necessary additional information.

1 An ODHR representative may contact an eligible employee's health care provider to clarify and/or authenticate a health care provider certification presented in connection with an FMLA leave request for a serious health condition (as appropriate).

2 The College reserves the right to require the eligible employee to provide a second or third medical opinion regarding a serious health condition of the eligible employee or a family member in accordance with the FMLA. In such circumstances, the College will select and pay the expenses for the health care provider to be consulted for the second and third medical opinion, as applicable. If the first and second medical opinions differ, the third opinion shall be final and binding. (Note: If the employee chooses not to participate in the second or third medical opinion or the employee or the family member does not authorize the health care provider to release the information, the FMLA leave may be denied.)

VI. FMLA Leave Options

A. Intermittent FMLA Leave or Reduced FMLA Leave Schedule: Intermittent FMLA leave is defined as leave taken in separate non-consecutive blocks of time for a single qualifying reason. Reduced FMLA leave schedule is defined as a change in

the employee's work schedule for a period of time that reduces the number of hours an employee usually works in a workday or a workweek. Intermittent FMLA leave or a reduced FMLA leave schedule is available only when the certification from a healthcare provider establishes that such FMLA leave is medically necessary.

1 An eligible employee must make a reasonable effort with the supervisor to identify a work schedule for such FMLA leave that meets the employee's needs without unduly disrupting the College's operations, in accordance with the documentation supplied by the health care provider.

2 The College reserves the right to temporarily transfer an eligible employee requesting intermittent FMLA leave or a reduced FMLA leave schedule to an alternative position that better accommodates the recurring periods of FMLA leave. In such circumstances, this will not impact the eligible employee's salary or other benefits already afforded to them and will only be made for the duration of the approved intermittent or reduced FMLA leave schedule. Note that flexible work locations and schedules are not considered benefits.

B. Full-time FMLA Leave: Full-time FMLA leave is defined as leave taken continuously without interruption based on an eligible employee's regular work schedule.

1 Full-time FMLA leave is available for an eligible employee when the certification from a healthcare provider establishes that such leave is medically necessary; and/or

2 Full-time FMLA leave is available for an eligible employee for the birth of a healthy child or placement of a healthy child for adoption or foster care. Intermittent FMLA is not applicable under these circumstances.

a For the placement of a healthy child for adoption or foster care, an eligible employee may request intermittent FMLA leave before the placement or adoption date after the employee provides appropriate documentation for review and approval by ODHR, as applicable.

C. FMLA Scheduled with other available paid leaves

1 FMLA leave shall run concurrently with other accrued paid leaves, as appropriate.

a An eligible employee shall use all accrued and/or available paid leave as appropriate, e.g., sick leave, sick leave pool, personal leave, and vacation leave prior to using unpaid FMLA leave, as determined by the Vice President of Organizational Development and Human Resources or their designee.

i Eligibility for benefits and premium payment obligations may be affected for an eligible employee in an unpaid status at the College. Therefore, the employee should connect with the Benefits team at benefits@valenciacollege.edu regarding benefits eligibility and/or expenses.

ii An eligible employee does not accrue paid leave while in unpaid leave status. For more information on accrued paid leave and other paid leaves, see College Policies: 6Hx28:3D-03 Total Rewards: Vacation, Sick and Personal Leave for Full-Time Employees, College Policy: 6Hx28:3D-05 Sick Leave Pool, 6Hx28: 3D-14 Paid Time Off for Part Time Faculty Teaching Academic Credit Programs.

b See College Policy 6Hx28: 3D-06.1.1 Paid Parenting Leave for Full-Time Employees for additional information on activities related to the care and well-being of an eligible employee's newborn or adopted child under five (5) years of age.

c The paid leaves described in Procedures III. C. 1. a and b above and any other applicable leaves, including unpaid leave, will be applied against the twelve (12) workweeks of FMLA entitlement, the twenty-six (26) workweeks of Military Caregiver Leave, and the twelve (12) workweeks of Military Qualifying Exigency Leave.

VII. Recertification of FMLA Leave

A. Annual health care provider certification

1 When an eligible employee's need for FMLA leave is due to the eligible employee's own serious health condition or the serious health condition of the eligible employee's covered family member, and the FMLA need lasts beyond a single FMLA leave year, the College shall require the eligible employee to provide a new health care provider certification in each subsequent FMLA leave year. Such new health care provider

certification(s) are subject to the provisions for authentication and clarification, including second and third opinions as described in Procedure V. B.

2 An eligible employee on FMLA for a serious health condition for themselves, a spouse, a child, or parent may be required, while on FMLA leave, to recertify that the serious health condition exists if:

a The eligible employee requests an extension of previously authorized FMLA leave;

b Circumstances described by the original certification have changed; and/or

c The College receives conflicting information regarding the eligible employee's current status, therefore necessitating a recertification.

VIII. Return to Work Requirements

A. An eligible employee is required to report to work on the first business day following the end of the FMLA leave period.

1 If the need for such leave is greater than originally set forth in the original FMLA approval, the employee is required to provide appropriate documentation for review and approval (as applicable). If the request for additional FMLA leave or other leave is not approved, the employee is required to return to work at the end of the original FMLA approval.

2 If the need for such leave is less than originally set forth in the FMLA approval, the employee is required to provide appropriate documentation (as applicable) for review and approval, as applicable, before the employee returns to work.

B. An employee may request to participate in an interactive process as outlined in College Policy 6Hx28: 02-02 Workplace Accommodations for Applicants and Employees, for a medical condition(s) they feel impacts their ability to perform the essential functions of their job and may rise to the level of a disability as defined by the Americans with Disabilities Act.

C. If an eligible employee fails to return to work after an approved FMLA leave, including any other approved available leave options, the continued absence will no longer be protected under the FMLA and the eligible employee may be

considered to have resigned from the College in accordance with College Policy 6Hx28: 3F-05.2 Abandonment of Position.

IX. Employee FMLA Rights

A. Maintenance of Benefits: For an eligible employee on FMLA, the College will maintain the employee's benefits, as applicable, in accordance with College Policy 6Hx28: 3C-08 Total Rewards: Employee Benefits. Eligibility for benefits and premium payment obligations may be affected for employees in an unpaid status at the College. Therefore, the employee should connect with the Benefits team at benefits@valenciacollege.edu regarding benefits eligibility and/or expenses.

B. Job Restoration: Upon return from FMLA leave, an eligible employee will be restored to their original or equivalent position. An employee will not be reinstated if they would have been terminated, but for the FMLA leave; or if they are unable to perform the essential functions of their job, with or without reasonable accommodations. For more information on the accommodation process, see College Policy 6Hx28:02-02 Workplace Accommodations for Applicants and Employees.

X. Employee expectations during the FMLA process and while on approved FMLA leave: The College shall comply with FMLA laws. As such, an employee going through the FMLA process or who is on approved FMLA leave is also responsible for continuing to comply with applicable College policies, established procedures and FMLA guidelines. An employee who engages in fraudulent behavior or misrepresentation; or fails to comply with employee obligations under this policy or other applicable College policies and procedures may result in the employee's loss of benefits, denial, or termination of FMLA leave, and/or corrective and/or disciplinary action in accordance with College Policy 6Hx28: 3E-08 Disciplinary Action, as appropriate.

XI. An employee who believes an adverse employment action has been taken for requesting or taking FMLA, including Military Caregiver Leave and Military Qualifying Exigency leave, should contact a representative from ODHR Human Resources for further review and action as deemed appropriate.

Procedure History:

Adopted 2-16-94; Amended 11-20-96; Amended 4-16-13; Amended 9-27-17; Amended 4-27-20; Amended 12-01-22; Amended 4-16-24; Amended 6-3-25; Formerly 6Hx28:07-38

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