

Family and Medical Leave Act of 1993 and National Defense Authorization Act of 2008

Policy/Procedure

Background

On February 5, 1993, President Clinton signed into law the Family and Medical Leave Act which provides employees with temporary leave from their employment in the event of the birth or adoption of a child, the serious health condition of a family member, or their own serious health condition. I will attempt to briefly highlight the important aspects of the Act as it pertains to Dickinson College employees as follows.

The provisions of the Act go into effect on August 5, 1993. In order to be eligible for the protection of the Act, a Dickinson employee must be employed by the College for at least 12 months and for not less than 1,250 hours.

The Act provides that Dickinson employees shall be entitled to an unpaid "family leave" of 12 weeks in any 12-month period, providing that the employee gives the College advance notice. "Family Leave" is defined as leave from employment to provide care which is necessary because of one of four events:

- The birth of an employee's child.
- The adoption of a child by an employee.
- The serious health condition of a spouse, son, daughter, or parent of the employee.
- The serious health condition of the employee.

Employees have the option of taking the leave provided by the Act intermittently or on a "reduced leave schedule". This option allows the employee to work shorter work-weeks or shorter work-days for the College. However, it does not reduce the total amount of leave (12 work weeks or 60 days) to which the employee is entitled.

When an employee is on leave pursuant to the Act, the College is required to maintain whatever health care coverage agreement the employee would have enjoyed had he or she continued in employment on the same basis. While the College is not required to pay for an employee's leave under the Act, the College can require an employee, or the employee may elect to substitute accrued paid vacation leave during the leave period. The same option exists in the event of one's own serious health condition, one can use accrued sick leave. The Act does state that it does not constitute a requirement on the part of the College to provide paid sick leave where it normally would not be provided.

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A Dickinson employee who returns to work after a Family and Medical Leave Act leave is entitled to be "restored" to the position which he or she held prior to the leave or to "an equivalent position of like seniority status, employment benefits, pay, and other terms and conditions of employment". If an employee doesn't return to work at the conclusion of leave for a reason other than a) the continuation of recurrence of his or her serious health condition/or that of a spouse/parent/son/daughter or b) "circumstances beyond the control of the employee", the College can recover the premiums paid to provide health care coverage for the employee during the leave.

For further information regarding the details of the Family and Medical Leave Act or if you have any questions regarding the College's various leave programs, please contact Human Resource Services at ext. 1503.

Policy Statement

The college complies with the Family and Medical Leave Act of 1993 (FMLA). As such, all employees who have completed at least 12 months of service and worked at least 1,250 hours at the college during the 12-month period prior to the date a leave would begin may request unpaid family and medical leave of up to 12 weeks.

A leave is available to employees if they: 1) give birth to a child; 2) become the father of a child; 3) adopt a child; 4) accept the placement of a foster child; 5) need to care for a child, parent or spouse who has a serious health condition; or 6) have a serious health condition that prevents that person from performing the functions of their position.

An employee who is granted a family and medical leave of absence will be required to use all accrued vacation and, when applicable, paid sick leave and paid short-term disability benefits during the course of the leave. Any portion of the leave that occurs after all vacation, appropriate paid sick leave and paid short-term disability benefits have been exhausted shall be without pay.

To qualify for family and medical leaves, other than for unforeseen medical reasons, employees must provide written notice at least 30 days in advance by submitting a letter, through the supervisor, to HR Services. If the leave is not foreseeable at least 30 days in advance, the employee must provide as much advance notice as is practical.

Upon receipt of notice that an employee is requesting or is eligible for FMLA leave, a letter and form will be sent to the employee. This form is a medical certification required by law and should be completed by a medical provider and returned to HR Services within 15 days of receipt. Completion of a medical certification is required when a request for leave is made due to a serious health condition of the employee or an eligible family member. An employee returning from a medical leave for his or her own serious health condition will be required to provide a medical certification verifying that he or she is able to return to work. If an employee fails to return to work immediately after the period of the approved leave expires, the employee will be considered to have voluntarily resigned from the college.

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Some leaves under FMLA may be eligible for paid leave under Sick Leave, Short-Term Disability (STD) or Maternity/Adoption Leave provisions. (See respective sections for eligibility and specific provisions/limitations.) All applicable leave time (paid and unpaid) will be applied to FMLA.

Under FMLA, employees may take leave for serious health conditions intermittently or on a reduced leave schedule. In instances of requests for family leave related to the birth or adoption of a child, FMLA does not require the college to allow intermittent leave or leave on a reduced schedule. However, the college may consider doing so on a case-by-case basis. This option allows the employee to work shorter workweeks or shorter workdays to take leave equivalent to the specified 12 workweeks or 60 workdays. For example, an employee and the supervisor may agree to allow the employee to take eight weeks off and then return to work half-time for eight weeks, which is the equivalent of 12 weeks of leave.

The college will maintain whatever health care coverage agreement the employee had prior to the leave during the FMLA leave. During FMLA leave, an employee is required to pay his or her portion of medical insurance. Should the employee not return to work at the conclusion of the leave for a reason other than the continuation or recurrence of the health condition that prompted the leave or circumstances beyond the control of the employee, the college may recover the premiums paid to provide health care during the leave.

Upon returning to work from FMLA leave, the employee will be restored to his or her previous position or to a position of equivalent seniority, employment benefits, pay and other terms and conditions of employment.

Related Information

History/Revision Information

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Also Found In: Human Resource Services Web Site (www.dickinson.edu/hrservices/fmla.html);
Dickinson Employee Handbook Revised October 2016