

## RVC Board Policy 3:30.090

### Family and Medical Leave

#### 1. FAMILY AND MEDICAL LEAVE DEFINED:

In accordance with and subject to the *Family and Medical Leave Act of 1993* (the "FMLA") and the *Public Community College Act* ("PCCA"), unpaid leaves of absence are available to eligible Rock Valley College employees for certain enumerated reasons. The College will grant an eligible employee up to a total of 12 work weeks during any rolling 12-month period to take family and medical leave when the employee is unable to work because of the following reasons:

- a. The birth and first-year care of a child;
- b. The placement of a child with an employee in connection with the adoption or foster care of a child by an employee;
- c. To care for a child, parent or spouse who has a serious health condition, as those terms are defined by the FMLA;
- d. The employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his or her position;
- e. The existence of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty service). "Qualifying exigencies" exist in the following categories: short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, parental care and additional activities as provided in the FMLA regulation; or

To care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. A "covered servicemember" means (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 covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. *Covered veteran* means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and 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.

# Rock Valley College

An employee seeking family and medical leave must be eligible for such leave under the FMLA, the PCCA, or both. To be eligible for family and medical leave under the FMLA, an employee must:

- a. have been employed by Rock Valley College for at least a total of 12 months prior to the event giving rise to the need for leave;
- b. have been employed for at least 1250 hours of service over the 12-month period immediately preceding the commencement of the leave; and
- c. be employed at a worksite where Rock Valley College employs at least 50 employees within a 75-mile radius of that worksite.

To be eligible for family and medical leave under the PCCA, an employee must:

- a. have been employed by the College for at least 12 months; and
- b. have worked at least 1000 hours in the previous 12-month period.

The College will grant family and medical leave under the PCCA under the same terms and conditions as FMLA leave, as described further in this Policy.

Spouses employed by the College are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a dependent child or parent (but not a parent-in-law) who has a serious health condition as defined in the regulations implementing the FMLA.

Spouses employed by the College are entitled to a combined total of 26 weeks if a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty exists.

Family and medical leave is unpaid. However, employees on family leave must use accrued vacation, personal or family leave for the birth or placement of a child for adoption or foster care. Employees must also use vacation, personal and/or sick leave to care for an immediate family member (spouse, child or parent, but not parent-in-law) or the employee's own serious health condition prior to being placed in unpaid status. If and when all available paid time off is exhausted, the remainder of the family or medical leave shall be unpaid. Employees are required to use available paid time off first, before unpaid leave is granted.

## **2. JOB PROTECTION/REINSTATEMENT:**

Upon return from an approved family or medical leave that is equal to or less than the aggregate maximum of 12 weeks required by law, an employee will be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. An employee is not entitled to job protection within the aggregate leave exceeds 12 weeks in any rolling 12-month period.

However, Rock Valley College may refuse to reinstate:

# Rock Valley College

- a. certain highly paid “key” employees after using family or medical leave. “Key employee is an eligible salaried employee who is among the highest paid ten percent of employees. Such employees would be notified of their status as a “key” employee in response to the employee’s notice of intent to take family or medical leave. The employee would be offered a reasonable opportunity to work. A final determination as to whether reinstatement will be denied will be made at the end of the leave period if the employee requests restoration.
- b. employees who would have been laid off or otherwise had their employment terminated had they continued to work during the period the family or medical leave was used.

### **3. REQUESTING FAMILY OR MEDICAL LEAVE:**

An employee requesting family or medical leave is required to:

- a. provide 30-day advance notice before the leave is to begin to his/her supervisor and the Vice President of Human Resources when the need for family or medical leave is foreseeable. Where the need for leave is not foreseeable, the employee must give notice as soon as possible (within 1 to 2 business days of learning of the need for leave, except in extraordinary circumstances). Employees must provide at least verbal notice sufficient to make the College aware of their need for family or medical leave, and the anticipated timing and duration of the leave. Failure to provide such notice may be grounds for delay in granting the leave;
- b. within fifteen calendar days after the College’s request for family or medical certification is made, provide a medical certification from the employee or family member’s health care provider supporting the need for a leave due to the employee’s own serious health condition or that of an immediate family member. When the leave is to care for a covered servicemember with a serious illness or injury, the employee must provide a certificate completed by an authorized health care provider for the covered servicemember and any other additional information in accordance with the FMLA’s regulations. When the leave is because of a qualified exigency, the employee must provide a copy of the covered military member’s active duty orders or other documentation issued by the military indicating that the covered military member is on active duty or call to active duty status in support of a contingency operation, the dates of the covered military member’s active duty service and any other additional information in accordance with the FMLA’s regulations. Failure to provide a satisfactory certification may result in a denial or postponement of a leave;
- c. provide periodic, (normally every thirty (30) days) written updates to the Vice President of Human Resources during the leave on the employee’s status and intent to return to work.

# Rock Valley College

The Human Resources Department will require clarification or authentication of medical certification that is incomplete or insufficient as needed in accordance with the FMLA.

## **4. INTERMITTENT FAMILY AND MEDICAL LEAVE**

An eligible employee may take family or medical leave on an intermittent basis in accordance with the FMLA's regulations. An employee needing intermittent leave must consult with the College regarding the scheduling of such leave so as to minimize the disruption to the College's operations.

## **5. VACATION ACCRUAL AND GROUP HEALTH COVERAGE WHILE ON LEAVE:**

An employee on family or medical leave is not eligible to accrue vacation time. An employee on family or medical leave will continue in the group health insurance, life insurance and long-term disability programs under the same terms and conditions that the employee was covered prior to the leave. The employee is responsible for paying the employee's portion of the premiums associated with these programs while on family or medical leave. The obligation of Rock Valley College to continue an employee's medical coverage shall cease if the employee's premium payment is more than thirty (30) days late or informs Rock Valley College of an intent not to return to work at the end of a leave period. In the event either of the foregoing occur, or if the employee fails to return to work when the leave entitlement is used up, the employee shall be responsible for reimbursing the College for the employer-paid portion of the employee's benefits premiums. When an employee exhausts his or her family or medical leave and is unable to return to work, the employee will be entitled to continuing medical insurance coverage under COBRA.

## **6. MEDICAL CERTIFICATION TO RETURN TO WORK**

Upon return from a leave resulting from the employee's own serious health condition, the employee must provide the College's Human Resources Department with certification from a health care provider indicating that the employee is fit to return to work and able to perform the essential duties of his or her job. The College may deny the employee's return to work until the medical certification is submitted.

## **7. ADMINISTRATION OF POLICY**

Rock Valley College intends to administer this policy in accordance with the requirements of the FMLA and any other applicable law pertaining to family and medical leaves. Therefore, this policy will be interpreted and applied in a manner that accords with all applicable legal regulations and requirements. Any leave of absence that is granted to an eligible employee under this policy or any other College policy, including but not limited to the Worker's Compensation policy, for a purpose specified above shall run concurrently and be credited against the 12-week benefit contained in this policy to the extent permitted by applicable law.

## 8. EXIGENCY AND SERVICEMEMBER FAMILY LEAVE

In accordance with the National Defense Authorization Act, an eligible employee who is the family member of a covered servicemember is permitted to take up to 26 work weeks of leave in a single 12-month period to care for a covered servicemember with a serious illness or injury incurred in the line of duty on active duty. These 26 work weeks include the 12 work weeks of job protection provided by Rock Valley College's Family and Medical Leave policy that will be available to eligible employees with a covered military member serving in the National Guard or Reserves to use for any "qualifying exigency" arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. Accordingly, all eligible employees shall be entitled to Exigency and Servicemember Family Leave, on a gender-neutral basis, provided leave is taken in accordance with the following provisions.

Applicable Definitions and Limitations.

### A. Definitions

1. "Covered Servicemember," as used herein, shall mean a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury incurred in the line of duty.
2. "Qualified Exigency," as used herein, shall be defined to include one or more of the following exigencies as provided in the U.S. Department of Labor ("DOL") Regulations implementing the Military Family Leave provisions of the *Family and Medical Leave Act*:
  - a. Short-notice deployment (for up to seven calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation);
  - b. To attend military events and related activities;
  - c. For childcare and school activities as enumerated by the DOL Regulations (29 C.F.R. Section 825.106(a)(3));
  - d. To make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status or to act as the Covered Servicemember's representative before a federal, state or local agency to obtain, arrange, or appeal military benefits while the Covered Servicemember is on active duty or call to active duty status;

# Rock Valley College

- e. To attend counseling provided by someone other than a health care provider for oneself, for the Covered Servicemember, or the Covered Servicemember's child or stepchild, provided that the need for counseling arises from the active duty or call to active duty status of the Covered Servicemember;
- f. To spend time with a Covered Servicemember who is on short-term, temporary rest and recuperation leave during the period of deployment (for up to five days for each instance of rest and recuperation);
- g. To attend post-deployment activities and address issues arising from the death of a Covered Servicemember while on active duty status; and
- h. To address other events which arise out of the Covered Servicemember's active duty or call to active duty status provided that the College and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

**B. Exigency Leave.** Eligible employees shall be entitled to a total of twelve (12) work weeks of unpaid leave during the twelve (12) month period because of any "Qualifying Exigency" arising out of the active duty or call to active duty in the Armed Forces in support of a contingency operation of the employee's spouse, son, daughter or parent, subject to the following:

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 one allowed under the Act;
2. leave may be taken on an intermittent basis (in separate blocks of time) or reduced schedule (reducing the usual number of hours per week or per day) because of a "Qualifying Exigency," subject to the requirements and limitations set forth in the FMLA Regulations; and
3. the College may require requests seeking leave due to a "Qualifying Exigency" be supported by a signed Certification of Qualifying Exigency for Military Leave in the form provided by Rock Valley College.

**C. Servicemember Family Leave.** Eligible employees (the spouse, son, daughter, parent, or next of kin of a Covered Servicemember) shall be entitled to a total of twenty-six (26) work weeks of unpaid leave during a single twelve (12) month period to care for a Covered Servicemember (beginning the first day the eligible employee takes leave to care for a Covered Servicemember) provided that the Covered Servicemember's injury or illness renders him or her medically unfit to perform duties of the member's office, grade, rank or rating, subject to the following:

# Rock Valley College

1. the employee must state a qualifying reason for the leave to allow the College to determine whether the purpose for the leave is one allowed under the Act;
2. a husband and wife who are both employed by the College and both eligible for leave, are only permitted to take a combined total of twenty-six (26) weeks of leave during a single twelve (12) month period;
3. leave to care for a Covered Servicemember and leave for any other FMLA-qualifying event may not exceed twenty-six (26) weeks in a single twelve (12) month period;
4. leave may be taken on an intermittent basis (in separate blocks of time due to a single illness or injury) or reduced schedule (reducing the usual number of hours per week or per day) if medically necessary; and
5. The College may require that requests seeking leave for Servicemember Family Leave be supported by medical certification from the Covered Servicemember's health care provider sufficient to establish that the Covered Servicemember is in need of care. Such medical certification must be submitted within 15 calendar days after the Superintendent or his or her designee requests the certification.

In cases where the College has reason to doubt the validity of a medical certification it may seek authentication or clarification in accordance with DOL Regulations (29 C.F.R. Section 825.307(a)).

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 leaves, until the employee provides the required certification.

- D. Substitution of Paid Leave.** Other available paid vacation, personal or family leave must be substituted for Exigency and Servicemember leave prior to being placed in unpaid status. Where leave is necessitated by the care for a seriously ill or injured Servicemember, sick leave must be used prior to an employee being placed in unpaid status. Any substitution required by this policy will count towards the employee's Exigency or Servicemember Family Leave entitlement. The College will pay sick leave only under circumstances permitted by the applicable sick leave policy. Use of Exigency or Servicemember Family Leave shall not necessarily preclude the use of other applicable unpaid leave that will extend the employee's leave beyond 12 weeks, or 26 weeks where applicable, provided that the use of Exigency or Servicemember Family Leave shall not serve to extend such other unpaid leave.

# Rock Valley College

- E. Notice.** When practicable, employees must provide at least 30 days' notice to the College of the date when a leave is to begin. If 30 days' notice is not practicable, the notice must be given as soon as practicable. Employees shall provide at least verbal notice sufficient to make the College aware that he or she needs Exigency or Servicemember Family Leave, and the anticipated timing and duration of the leave. Failure to give the required notice may result in the delay in granting the requested leave until at least 30 days after the date the employee provides notice.
- F. Continuation of Health Benefits.** During Exigency or Servicemember Family Leave, employees are entitled to continuation of health benefits that would have been provided if they were working. If the College contributes a portion of an employee's health plan premiums during a period of unpaid Exigency or Servicemember Family Leave, it may recover the amount of such payments if the employee fails to return to work after such leave has been exhausted or expires, as provided under the FMLA.
- G. Return to Work.** An employee returning from Exigency or Servicemember Family Leave will be given an equivalent position to his or her position before the leave, subject to the College's reinstatement policies and practices set forth in its Family and Medical Leave policy and FMLA regulations.
- H. Implementing Procedures:** Rock Valley College may develop procedural guidelines to implement this policy consistent with the Family and Medical Leave Act.

**Reference:** Board Report 6575; 7886

**Implemented:** January 16, 2009

**Revised:** April 8, 2014; December 21, 2021