



**MOST RECENT CHANGES**

Version 1: Establishment of Family and Medical Leave (FMLA) policy.

**I. POLICY PURPOSE**

To ensure compliance with the Family and Medical Leave Act (“FMLA”) and provide guidelines for handling requests for time off due to the birth, adoption, or foster care of a child; the serious health condition of an employee or an immediate family member; qualifying exigencies associated with a family member’s military service; or the illness or injury of a family member in the military.

**II. POLICY STATEMENT**

The College will grant eligible employees leave under FMLA for up to 12 workweeks during a rolling 12-month period. The 12-month period is measured backward from the date an employee first uses qualifying leave. An employee who has been employed at the College for at least 12 months and has worked at least 1,250 qualifying hours during the 12-month period preceding the leave is eligible for FMLA leave. Prior to the College approving FMLA leave, the employee must fully comply with all requirements for FMLA eligibility, including providing required application and certification forms for review within mandated time limits.

Additional leave may be approved when the employee has a disability as defined by the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008 (ADAAA), and meets the other statutory requirements for accommodation under the ADA. For these types of inquiries and complete information regarding FMLA leave, please contact Human Resources at (702) 651-5800.

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related to FMLA. An employee who abuses or applies for FMLA leave under false pretenses may subject to discipline.

**III. PROCEDURE**

Eligible employees may request FMLA leave for any of the following reasons:

- Birth, adoption, or foster care of an employee’s child;
- Care for a child, spouse or parent who has a serious health condition;
- Employee’s own serious health condition;
- Qualifying events related to a family member’s active-duty military service or call to active duty;
- Care for certain injured or sick family members in the military.

**FMLA Leave Request**

Employees seeking FMLA leave must submit an electronic leave request through the CSN iLeave System. Upon receiving notice of an employee’s FMLA leave request, the Human Resource Benefits Coordinator will contact the employee and provide the FMLA application and information. An employee may be required to request FMLA leave for any period of incapacity of more than three consecutive calendar days that also involves (1) two or more visits to a health care provider within 30 days of the first day of incapacity; or (2) one visit plus continuing treatment. To request FMLA leave, an employee must submit a completed [FMLA Leave of Absence Form](#) (Attachment F) to the employee’s supervisor and/or department leave keeper, and the Benefits Coordinator.

When an employee has advance notice of the need for FMLA leave, the employee must submit a completed Request Form thirty (30) calendar days before the leave is requested to begin. However, if circumstances prevent an employee from providing thirty (30) calendar days' notice, the employee must submit the completed request form as soon as feasible. Generally, this must be on the same or next business day. The employee must make an effort to schedule foreseeable leave so as not to unduly disrupt operations at the College or in the employee's department.

If a supervisor or department leave keeper becomes aware that an employee's absence may be for an FMLA-qualifying reason, for example the employee missed more than three consecutive calendar days on sick leave, the employee's supervisor or department leave keeper must contact the Benefits Coordinator immediately. The Benefits Coordinator will notify the employee of the employee's potential eligibility to take FMLA and forward the required FMLA forms to the employee within five business days. Sick leave pending FMLA approval may be tentatively designated as "sick leave pending documentation" until the employee completes the application process. If the required paperwork is not submitted to the Benefits Coordinator within fifteen calendar days of receipt, FMLA leave may be denied. If an eligible employee is using leave, with or without pay, in a manner which would qualify under FMLA, the appointing authority or designee may designate the leave as FMLA and provide written notice to the employee.<sup>1</sup> Such notice will provide details of the employee's obligations under FMLA and the effects of using the leave. While in FMLA leave status, all available paid leave must be used before leave without pay. Paid leave will run concurrently with and be counted toward the employee's total period of FMLA leave.

FMLA leave may be taken in a block of time or on an intermittent basis. The employee must work with the department to schedule FMLA leave to cause the least disruption to department operations as possible. While on FMLA leave, and unless informed otherwise, employees must follow all College and department attendance guidelines and call-in procedures for reporting an absence. Otherwise, the absence may be deemed unauthorized and unapproved, which can lead to discipline up to and including dismissal. The employee must use accrued sick leave for any sick leave absences not approved as part of the FMLA leave. An employee who will be on FMLA leave for more than one week may be required to provide periodic reports to the employee's supervisor and/or department leave keeper regarding the employee's status and intent to return to work. An employee using more than the prescribed number of days on intermittent leave may be required to provide recertification of the need for the increased number of days. If the recertification is denied, and the employee has insufficient sick leave time to cover the absence(s), the absence may be coded as "Absent Without Leave" (AWOL). AWOL absences are considered unapproved and unauthorized and are subject to a reduction in pay and disciplinary action up to and including dismissal from employment.

### **Health Care Provider Certification**

The Human Resource Benefits Coordinator will provide the required FMLA request and medical certification forms to the employee within five business days of the employee's request for FMLA leave, or upon receiving notice from a supervisor or department leave keeper that an employee has been out sick for more than three consecutive calendar days. Within fifteen calendar days of the Benefits Coordinator's receipt of the completed FMLA leave request form, or within fifteen calendar days of taking unforeseen leave, an employee must submit to the Benefits Coordinator a fully completed Certification of Health Care Provider<sup>2</sup> demonstrating the need for the leave. The certification should specify exactly when the employee needs the leave, in addition to the duration and frequency of the leave. If the certification is incomplete or fails to sufficiently demonstrate the need for FMLA leave, the Benefits Coordinator will notify the employee and the employee will have an additional seven calendar days to provide the necessary information to the Benefits Coordinator. If the certification is still deficient, or if the employee fails to provide the required certification to the Benefits Coordinator, the College may deny the employee's request for FMLA leave.

The Benefits Coordinator may contact the employee's health care provider to clarify or authenticate the medical certification submitted for the employee's own serious health condition or the serious health condition of a family member. If the employee refuses to allow the Benefits Coordinator to call the employee's health care provider, FMLA leave may be disapproved. If there is doubt that the employee suffers from a serious health condition, the College through the Benefits Coordinator may ask for a second opinion from another health care

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<sup>1</sup> Board of Regents [Handbook, Title 4, Chapter 3, Section 18](#).

<sup>2</sup> Contact CSN Benefits Coordinator for proper certification form.

provider chosen by the College and at the College's expense. If the second certification does not show a serious health condition, the employee may request a third, tie-breaking opinion from a health care provider at the College's expense. The third provider must be agreed upon by both the College and the employee.

### **Relationship to Other Types of Leave**

FMLA leave runs concurrently with other types of leave. While on FMLA leave, an employee's accrued paid leave will be exhausted prior to the employee going into unpaid leave status. Accrued sick leave will be applied first, followed by the employee's accrued annual leave. Classified employees must use any accrued compensatory time or catastrophic leave prior to going on unpaid status.<sup>3</sup> If all paid leave is exhausted during the employee's absence, the remaining FMLA leave will be designated as leave without pay. For professional employees, FMLA leave runs concurrently with any leave extension granted by the CSN President.<sup>4</sup> FMLA leave will run concurrently with any Short-Term Disability leave or Workers' Compensation Lost Time. For information about these programs, the employee should contact the Human Resources Benefits Coordinator.

If an employee and the employee's spouse are both employed by the College, they are limited to a combined total of 12 weeks FMLA leave during any 12-month period if leave is taken for any of the following reasons:

- A. Birth or care of an employee's newborn;
- B. Placement of an adopted or foster child with the employee or to care for the child after placement; or
- C. Care for the employee's parent with a serious health condition.

Leave taken due to the birth, adoption or placement for foster care of a child of the employee must be taken during the 12-month period directly following the birth or placement. The leave must be taken in a single consecutive period and may not be taken intermittently or on a reduced schedule, unless specifically approved by Human Resources and the employee's supervisor. Professional employees only may receive additional unpaid leave directly related to the birth or placement of a child upon request and up to a maximum of one year.<sup>5</sup>

If an eligible employee is using leave, with or without pay, in a manner which would qualify under FMLA, the appointing authority shall designate the leave as FMLA and shall provide written notice to the employee with details of the obligations of the employee and the effects of using the leave. While in FMLA status, all available paid leave must be used before leave without pay.

### **Medical Benefits**

Medical benefits will continue while an employee is on approved FMLA leave. Employees are responsible for the employee's portion of the health insurance premiums, which will be deducted during paid leave status. Arrangements to cover premiums during unpaid leave status may be made by contacting the CSN benefits office. In some instances, the College may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

### **Intermittent FMLA Leave**

If FMLA leave is taken intermittently or on a reduced schedule basis, CSN may require the employee to transfer temporarily to an available alternative position with an equivalent pay rate and benefits, including a part-time position, to better accommodate recurring periods of leave due to foreseeable medical treatment. Every employee is obligated to make a reasonable effort to schedule medical treatment so as not to unduly interrupt College operations. If the employee takes more than the approved amount of intermittent leave, CSN may require the employee to obtain a medical re-certification or a second or third medical certification to justify the additional leave.

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<sup>3</sup> [NAC 284.578\(7\)](#).

<sup>4</sup> Board of Regents [Handbook, Title 4, Chapter 3, Section 18](#).

<sup>5</sup> Board of Regents [Handbook, Title 4, Chapter 3, Section 18](#).

### **Returning to Work**

Employees on FMLA leave are expected to be reasonably responsive to and communicate with their supervisor and department during the leave. An employee on FMLA leave must contact the Benefits Coordinator and supervisor immediately upon learning of the need for an extension of leave. Alternatively, any employee on FMLA leave who has a medical release to return to work earlier than projected must contact the Benefits Coordinator and the supervisor immediately to schedule the employee's return to work. At least two business days' advance notice may be required prior to the employee returning to active status.

Before returning from FMLA leave for an employee's own health condition, the employee must provide the Benefits Coordinator and supervisor with a health care provider's release to return to work. The release should indicate that the employee is able to perform the essential functions of the job with or without reasonable accommodations. If an intermittent leave is necessary upon returning to work, the employee must provide the Benefits Coordinator with a completed medical certification form demonstrating the need for intermittent leave upon returning to work. If the employee fails to provide a release to return to work as of the first scheduled workday after approved leave, the employee will not be allowed to return to work and any absences will be deemed unexcused. The absences may be coded as Absent Without Leave (AWOL). AWOL absences are considered unapproved and unauthorized and are subject to a reduction in pay and disciplinary action up to and including dismissal from employment.

An employee returning from FMLA leave will be reinstated to the employee's former or an equivalent position unless the employee is unable to perform the essential functions of the former job with or without reasonable accommodations. Job restoration may be denied if conditions unrelated to the FMLA leave have resulted in the elimination of the employee's position or if the employee qualifies as a "key employee." Key employees may be denied job restoration if it would cause substantial and grievous economic injury to the College in which case the key employee will be notified of this decision.

An employee's failure to call in periodically as required by his or her supervisor, to provide the required medical recertification, or to return to work immediately upon expiration of FMLA leave may result in disciplinary action up to and including dismissal from employment. Failure to furnish a fitness for duty certification stating the employee's ability to return to work and perform the essential functions of the job may result in the delay of job restoration or the termination of the employee.

### **Care of an Employee's Adult Child**

A parent will be entitled to take FMLA leave to care for a child who is 18 years of age or older, if the adult son or daughter is incapable of self-care because of a mental or physical disability. For an eligible employee to be entitled to FMLA protected leave under these circumstances, the adult child must meet the following conditions:

- (1) have a disability as defined by the ADA;
- (2) be incapable of self-care due to that disability;
- (3) have a serious health condition; and
- (4) be in need of care due to the serious health condition

An employee is entitled to take FMLA leave to care for a son or daughter with a serious health condition who is 18 years of age or older and incapable of self-care because of a disability regardless of when the disability commenced. The same condition may satisfy both the ADA definition of disability and the FMLA definition of serious health condition. These requirements do not apply to an employee's entitlement to take FMLA military family leave for a son or daughter.

### **Military FMLA Leave**

#### **Active Duty Leave**

The College will grant up to 12 weeks of leave to immediate family members of active duty military service members, reservists, members of the National Guard, and certain retired but recalled to military service personnel. To be eligible for active duty leave, the employee must show the existence of one or more "qualifying exigencies" related to a military service member's deployment to a foreign country. These exigencies include attending military events, arranging for alternative childcare, attending school activities, addressing financial and legal arrangements, attending counseling, and participating in post-deployment activities.

#### Caregiver Leave

Eligible employees may use military family medical leave of up to 26 weeks during a single 12 month period to care for a covered military service member or covered veteran who has a serious injury or illness incurred in the line of duty that renders the service member medically unfit to perform his or her duties and for which he or she is undergoing medical treatment, recuperation, or therapy; is in outpatient status; or is on the temporary disability retired list.

#### **IV. AUTHORITY AND CROSS REFERENCE LINKS**

This section provides links to the current Federal and State laws, the NSHE Board of Regents Handbook, or CSN By-Laws that are applicable:

[29 CFR 825 §§ 2601 et seq. \(Family and Medical Leave Act of 1993\)](#)

NRS Sections: [284.345](#); [284.355](#); [284.360](#)

NAC Sections: [284.581](#); [284.566](#); [284.568](#)

[NSHE Code Title 4, Chapter 3, Sections 18, 20, and Appendix](#)

#### **V. DISCLAIMER**

CSN follows policies and guidelines set forth by the State of Nevada, the Department of Labor, and the Nevada System of Higher Education. The President has the discretion to suspend or rescind all or any part of this policy or related procedure(s) to the extent allowed by law. The President shall notify appropriate CSN personnel, including the Office of General Counsel and Faculty Senate Chair, of the suspension or rescission.

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***[Signatures appear on next page]***

Questions about this FMLA Policy should be referred to the Office of General Counsel ([general.counsel@csn.edu](mailto:general.counsel@csn.edu), (702.651.7488); Office of Human Resources; and/or the Recommending Authority.

## VI. SIGNATURES

Recommended by:

/s/ Thomas Brown

Signature

4/8/13

Date

Thomas Brown, Special Assistant to the President

Reviewed for Legal Sufficiency:

/s/ Richard Hinckley

General Counsel

4/8/13

Date

Approved by:

/s/ Michael D. Richards

Michael Richards, CSN President

4/16/13

Date

## VII. ATTACHMENTS

- A. History
- B. Summary of College and Employee Responsibilities
- C. Glossary of Terms
- D. Links to additional FMLA Resources
- E. Sample FMLA leave approval letter
- F. FMLA Leave of Absence Form

## **ATTACHMENT "A"**

### **HISTORY**

- Version 1:
  - 04/16/2013: Approved by CSN President Mike Richards
  - 04/08/2013 Reviewed by General Counsel (R. Hinckley)
  - 02/01/2013: Recommended by Special Assistant to President (T. Brown)

**ATTACHMENT "B"****SUMMARY OF RESPONSIBILITIES****College Responsibilities under FMLA**

- Respond promptly to employee requests for FMLA leave
- Upon receiving notice that an employee may qualify for FMLA leave or has been absent on sick leave for more than three consecutive days, provide the employee with FMLA information and forms
- Provide employee with Eligibility Notice and Rights and Responsibilities form within 5 business days of an employee's FMLA leave request
- Until it is determined whether the FMLA leave request is approved, absences will be designated as " Sick Leave pending documentation."
  - o If FMLA leave is disapproved and the employee has exceeded his/her sick leave balance, the absences may be designated "AWOL" and subject to disciplinary action.
- Provide Designation Notice within 5 business days if leave is approved
- Obtain medical certification from employees applying for FMLA leave
  - o Allow 7 calendar days additional time if needed to correct deficiencies or obtain verification from provider
  - o Contact provider as needed for clarification/verification
- Request second medical opinion when the need for FMLA leave is unclear or in dispute (at the College's expense)
  - o A third opinion may be requested by the employee at the College's expense if the employee disagrees with the second opinion
- Monitor intermittent FMLA leave and request recertification if employee exceeds the approved number of days
- Continue health benefits during the employee's FMLA absence
- Require employee to provide periodic status reports and intent to return to work
- CSN may request certification every 30 calendar days for long-term conditions, as well as inquire as to the employee's status and intent to return to work
- It is illegal for an employer to retaliate or interfere with an employee's use of FMLA leave.

## **Employee Responsibilities under FMLA**

- Provide 30 calendar days' notice of the need for FMLA leave
  - o If need for FMLA leave is unforeseeable, follow CSN and Dept. call in procedures and notify College of need for FMLA leave as soon as reasonably possible
- Provide fully completed medical certification forms to Benefits Coordinator within 15 calendar days
  - o ***Failure to provide the required medical certification may result in denial of the request for FMLA leave.***
- If required, provide additional information for medical certification to Benefits Coordinator within 7 calendar days of request
  - o ***If an employee refuses to allow the Benefits Coordinator to contact the employee's health care provider for verification or clarification, FMLA leave may be denied.***
- Communicate with supervisor and/or leave keeper as directed by your supervisor
- Submit an electronic leave request through the CSN iLeave System
- Use FMLA leave only for approved reason(s)
  - o Sick leave will be charged for absences for reasons other than FMLA approved reasons. If an employee exceeds his/her accrued sick leave balance, it may lead to discipline
- If days taken under intermittent FMLA leave exceed the approved number, employee must provide recertification by a health care provider upon request by Benefits Coordinator.
  - o Failure to provide this document may result in disapproved leave (AWOL) for those absences exceeding approved FMLA leave, which may lead to a reduction in pay and disciplinary action up to and including dismissal from employment.
- Immediately contact supervisor when cleared to return to work
- Provide a return to work certification if requested
  - o ***Failure to provide the required return to work certification may result in the employee being sent home and charged with a day of AWOL. This may lead to a reduction in pay and disciplinary action up to and including dismissal from employment.***
- An employee who abuses or misuses FMLA leave may be subject to discipline.

## ATTACHMENT "C"

### GLOSSARY

- A. **"Serious health condition"** means a physical or mental illness, injury or impairment that involves (a) inpatient care in a hospital, hospice, or residential health care facility, or (b) continuing treatment or supervision at home by a health care provider or other competent individual. **Caution:** Unless complications arise, ailments such as the common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, etc., are not considered a serious health condition and do not qualify for FMLA leave under this policy.
- B. **"Family member"** includes a person to whom the employee is related by blood, legal custody, marriage, or registered domestic partner, a child placed with an employee for whom the employee permanently assumes and discharges parental responsibility, or other persons as defined by law.
- C. **"Eligible Employee"** means an individual who has been employed by CSN for at least 12 months, has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the requested leave, and is employed at a worksite with at least 50 employees within 75 miles of that worksite.
- D. **"Intermittent Leave"** means leave taken in separate blocks of time due to a single qualifying reason.
- E. **"Reduced Schedule Leave"** is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.
- F. **"Covered Servicemember"** means a 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.
- G. **"Covered Military Member"** means the employee's spouse, son, daughter or parent on active duty or call to active duty status.
- H. **"Active duty or call to active duty"** means duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as either a member of the reserve components, or a retired member of the Armed Forces or Reserve.
- I. **"Serious Injury or Illness"** in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
- J. **"Key Employee"** Under limited circumstances where restoration to employment will cause "substantial and grievous economic injury" to its operations, an employer may refuse to reinstate certain highly-paid, salaried "key" employees. In order to do so, the employer must notify the employee in writing of his/her status as a "key" employee (as defined by FMLA), the reasons for denying job restoration, and provide the employee a reasonable opportunity to return to work after so notifying the employee.

**ATTACHMENT “D”****LINKS TO ADDITIONAL FMLA INFORMATION**

Please see definition and information about FMLA at the CSN Division of Human Resources website: <https://www.csn.edu/human-resources>

For FMLA forms please see the State of Nevada Division of Human Resources web page: <http://hr.nv.gov/Resources/Forms/Forms/>  
Scroll down to “Attendance and Leave” for the applicable forms.

FMLA Poster: <http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>

For FMLA information and regulations: <https://www.dol.gov/general/topic/benefits-leave/fmla>

Board of Regents Handbook, Title 4, Chapter 3, Sections 18, 20,  
Appendix: <https://nshe.nevada.edu/wp-content/uploads/file/BoardOfRegents/Handbook/title4//T4-CH03%20Professional%20Staff.pdf>

## ATTACHMENT "E"



Office of Human Resources  
6375 West Charleston Blvd., W40E  
Las Vegas, NV 89146  
Telephone: (702) 651-5800 – FAX (702) 651-5778

mm/dd/yy

Dear:

The Division of Human Resources is in receipt of a complete packet of FMLA paperwork materials. We have completed our review of your request for leave. **Your request for FMLA leave has been approved with an effective date of mm/dd/yy.** The medical records provided by you from your physician states that you may be able to return to work on mm/dd/yy with/without restrictions. You will need your supervisor's approval to return with restrictions. **Therefore, you will be placed on FMLA leave from mm/dd/yy – mm/dd/yy (# weeks # days); please let me know if your condition requires you to stay out longer. You will need a doctor's release to return to work. You can either submit it before you return or the day you return.**

You must notify your supervisor of your leave immediately and call in periodically as directed by your department. You also must request your leave through iLeave (if you are incapacitated, your supervisor can do this on your behalf or you may contact me).

Please review the attached form as our official response to your FMLA request. Should you have any questions, please do not hesitate to contact me at 651-xxxx.

Best Regards,

Benefits Coordinator

cc:

Attachments

