4.9 Policy on Family and Medical Leave

**Purpose**

Through this policy Wesley College (“Wesley” or the “College”) seeks to establish a policy on Family and Medical Leave. This policy outlines Wesley College’s expectations and the employee’s obligations under the Family and Medical Leave Act.

**Applicability**

All employees who have been employed for at least 12 months by the College and have worked at least 1,250 hours for the College over the 12-month period prior to the leave request, are eligible for leave under (1), (2), (3), (4), (5), and (6) below.

**Policy Statement**

All eligible employees will be entitled to an unpaid leave of absence for 12 work weeks, during a 12-month period (not calendar year but rolling year) (as defined below) for one or more of the following reasons under this section. All employees eligible for leave under number 5 and 6 will be entitled to an unpaid leave of absence for 26 work weeks during a 12-month period (not calendar year but rolling year) (as defined below).

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
2. Because of the placement of a son or daughter with the employee for adoption or foster care.
3. In order to care for the spouse, the spouse's parent, or a son, daughter or parent, of the employee, if such spouse, spouse's parent, son, daughter or parent has a serious health condition (as defined below).
4. Because of a serious health condition (as defined below) that makes the employee unable to perform the essential functions of his/her position, either work-related or non-work related.
5. Because an employee is a parent, spouse, child, or the nearest blood relative of a soldier with a serious injury or illness (as defined below).
   a. Other types of FMLA leave may not be combined with the Service Member Medical Leave to exceed the 26-week limitation in a single 12-month period.
6. Because of a qualifying active duty exigency (as defined below) where the employee is a parent, spouse, child, or the nearest blood relative of a soldier who is on or who has received an order to active duty status in the United States Armed Forces in support of a contingency operation.

A. **DEFINITIONS**

For purposes of (3) and (4) above, a serious health condition means an illness, injury, impairment or physical or mental condition that involves:

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1. Inpatient care in a hospital, hospice or residential medical care facility; or
2. Continuing treatment by a health care provider resulting in incapacity of three days or more.
3. Other qualifying chronic conditions or periods of incapacity.

A son or daughter is defined as a child under 18 years of age, or those over 18 years of age and incapable of self-care because of a physical or mental disability. Note: Leave under (1) and (2) above must commence within the 12-month period beginning at the date of the birth or placement of the child.

For purposes of Section (5), a serious injury or illness is defined as an injury or illness suffered by a member of the United States Armed Forces in the line of duty on active duty in the Armed forces that may render the member medically unfit to perform the duties of the soldier’s office, grade, rank or rating.

For purposes of (6):

1. A qualifying active duty exigency is defined as an extreme hardship incurred by an employee whose family member is unexpectedly called to active duty status due to the sudden or impending absence of the family member.
2. The College is not currently legally obligated to provide Active Duty Exigency Leave, however, recognizing the burden carried by military families, the College chooses to voluntarily provide such leave. Whether the circumstances presented by the employee constitute a qualifying active duty exigency is within the discretion of the College.

B. PROCEDURE FOR REQUESTING LEAVE

1. In General -

a. At least 30 days advance notice of the need for leave is required for all leaves of absence granted under (1), (2), and (5). At least 15 days advance notice of the need for leave is required for all leaves of absence granted under (3) and (4). Failure to provide the required advance notice will result in denial of the leave until expiration of the required notice period, provided, however, that if such advance notice is not practicable, an employee must provide as much notice as is practicable under the circumstances. In any case in which the necessity for leave under (6) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the College as is reasonable and practicable.

b. The period used to calculate an employee's leave entitlement is calculated on a rolling basis by counting backwards from the date of the employee's requested leave, to the end date of a previous leave.

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2. Planned Medical Treatment of Serious Health Conditions

An employee must make an effort to schedule required medical treatments so as not to unduly disrupt the operations of the College.

C. CERTIFICATION

The College will require an initial medical certification from treating health care provider of the serious health condition, which necessitates an employee's leave of absence. No leave will be approved until the initial medical certification is submitted. The College will also require re-certification of the need for leave every 30 days or upon the expiration of the period of incapacity as indicated in any prior certification form. The College may also require re-certification upon receipt of a request for additional leave or upon a change within 15 calendar days will revoke an employee's entitlement to continued leave.

Certification forms can be obtained from the College and will require the following information:

1. The date the serious health condition began;
2. The probable duration of the condition;
3. Medical facts regarding the condition;
4. If the employee is requesting leave to care for a parent, spouse, spouse's parent, or child, the employee is required to produce a written certification from the family member's treating health care provider certifying that the employee is needed to care for that family member, and an estimate of time the employee is needed to provide such care.
5. If the employee is requesting a leave for his/her own serious health condition, the employee must provide a written certification from his/her treating health care provider that the employee is unable to perform the functions of his/her job.
6. If an employee is unable to return to work at the conclusion of his/her leave entitlement due to the continuance, recurrence or onset of a serious health condition, he/she must provide medical certification of that condition.
7. The College reserves the right to require a medical certification from a second health care provider. If the second certification differs from the original certification, the College reserves the right to require a third certification from a health care provider approved jointly by the College and the employee. The third medical certification will be deemed final and binding on both the College and the employee.

D. INTERMITTENT OR REDUCED LEAVE

1. Intermittent or reduced leave is not available under Sections B (1), B (2), or B (6) without express written approval from the College.
2. Leave under Section B (3), B (4), or B (5) may be taken intermittently or on a reduced leave schedule (a decrease in the number of hours per work week or hours per work day of an employee) only when medically necessary. If an employee exercises intermittent or reduced leave for planned
medical treatment, the College reserves the right to transfer that employee temporarily to an alternative position, with equivalent pay and benefits that better accommodates the recurring periods of leave than does that employee's regular position.

3. Where an employee has taken leave pursuant to this policy, and during such leave the College ceases operations for one week or more, such time that the employee would not ordinarily be expected to work due to the temporary closure of the College shall not be counted against the employee’s leave entitlement.

E. PERIODIC REPORTS

The College requires an employee on any type of leave to report on a periodic basis his/her status and intention of returning to work.

F. SPOUSES EMPLOYED AT THE COLLEGE

If spouses are both employed by the College, their leave entitlements shall be calculated as allowed by law.

G. BENEFITS AVAILABLE DURING LEAVE

Benefits are maintained for an employee during an approved FMLA leave on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

H. RETURN FROM LEAVE

Upon timely return from Family and Medical Leave, an employee will be returned to his/her prior position or any equivalent position with equivalent benefits, pay and other terms and conditions of employment, subject to the conditions below:

1. An employee who has taken the FMLA for his/her own serious health condition is required to submit a certification from his/her health care provider certifying that the employee is able to resume his/her position before returning to work.

2. The leave may be extended, at the discretion of the Employer, for a period up to three (3) months. An employee who returns upon expiration of the extended leave shall be placed in any available position he/she is capable of performing. If there is no position available, the employee shall be placed on a preferential hiring list. The College is not obligated to reinstate to employment any employee whose job position is eliminated for any reason during his/her extended leave of absence.

3. Certain employees may be denied restoration to employment if:
a. The employee is a "Key" employee, as defined by law, and, operations
b. The denial is necessary to prevent substantial and grievous economic injury to the College.

I. FAILURE TO RETURN FROM LEAVE

If an employee's leave entitlement expires and the employee does not return to work, the College has no obligation to continue paying health premiums on behalf of the employee. The College reserves the right to recover health insurance premiums that it paid on an employee's behalf during the leave period if the employee fails to return from leave (except when the employee is unable to return to work for reasons beyond his/her control, such as the continuation, recurrence or onset of a serious health condition).

J. ADDITIONAL EMPLOYEE RESPONSIBILITY

It is the employee's sole responsibility to ensure that all requests for leave, certifications and other required forms or documents are submitted to the appropriate person in a timely manner. Failure to do so can result in disciplinary action, up to and including discharge. Falsification of any request, certification, or other form or document will be punishable by termination.

K. FURTHER INFORMATION

Employees should direct all inquiries regarding this policy to his or her supervisor, manager or the Human Resources representative.