



Ohio Administrative Code

Rule 3357:15-14-24 Family and medical leave.

Effective: May 29, 2020

Stark state college will grant up to twelve weeks of leave (or up to twenty-six weeks of military caregiver leave to care for a covered service member with a serious health condition) during a twelve-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

(A) Eligibility: To qualify to take family medical leave (FML) under this policy, the employee must meet all of the following conditions:

(1) The employee must have worked for the college for twelve months or fifty-two weeks. The twelve months or fifty-two weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to national guard or reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on authorized leave during the week.

(2) The employee must have worked at least one thousand two hundred and fifty hours during the twelve-month period immediately before the date when the leave is requested to commence. Hours spent on paid or unpaid leave are not counted as hours worked in determining the one thousand two hundred fifty hour eligibility test for an employee under FML.

(B) Eligible employees are entitled to twelve weeks of unpaid FML each year for the following qualifying events. (Note: Military caregiver leave is twenty-six weeks of leave.)

(1) The birth of a child and to bond with the newborn child within one year of birth;



- (2) The placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement;
- (3) To care for an immediate family member, i.e. spouse, child, parent who has a serious health condition;
- (4) A serious health condition that makes the employee unable to perform the essential functions of his or her job;
- (5) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or called to covered duty status as a member of national guard, reserves, or regular armed forces;
- (6) Twenty-six workweeks of leave during a single twelve-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

(C) Amount of leave

- (1) An eligible employee can take up to twelve weeks for the FML circumstances listed in paragraphs (B)(1) to (B)(6) of this policy. Under this policy, Stark state college uses a rolling back twelve-month period beginning with the first instance of FML.
- (2) Each time an employee takes leave, the college will compute the amount of leave the employee has taken under this policy in the last twelve months and subtract it from the twelve weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
- (3) If two Stark state college employees request to take leave for the birth of the same child, adoption, or placement of the same child in foster care, or to care for the same parent with a serious health condition, the employees may only take a combined total of twelve weeks of leave. If the employees each request to take leave to care for the same covered injured or ill service member, the employees may only take a combined total of twenty-six weeks of leave.



(D) Employee status and benefits during leave

(1) While an employee is on unpaid leave, the college will continue all enrolled benefits during the unpaid leave period at the same level and under the same conditions as if the employee had continued to work. If the employee does not return to work, the college will require the employee to reimburse the college for the amount it paid for the employee's portion of the continuation of all enrolled benefits during the unpaid leave period.

(2) If the employee returns to work, the college will deduct the amount paid for the employee's portion of the continuation of all enrolled benefits during the unpaid leave period, from the employee's pay.

(E) Employee status after leave

(1) An employee who takes leave under this policy may be required to provide a fitness for duty (FFD) clearance from the health care provider.

(2) Generally, an employee who takes FML leave will be able to return to the same position or a position with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits, and working conditions. The college may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

(F) Disability leave/workers compensation

Instances in which an employee concurrently uses vacation, personal, or sick leave during periods when the employee is receiving partial pay under disability leave or workers compensation will be handled pursuant to federal regulations.

(G) Intermittent leave or a reduced work schedule

(1) The employee may take FML leave in twelve consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances,



may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of twelve workweeks (or twenty-six workweeks when authorized under the military caregiver leave provisions). The college may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances where leave for the employee or employee's immediate family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

(2) For the birth, bonding, adoption, or foster care of a child, the college and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, bonding, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.

(3) If the employee is taking leave for a serious health condition or due to the serious health condition of an immediate family member, the employee should try to reach agreement with the college before taking intermittent leave or working a reduced hour schedule. If this is not possible, the employee may be asked to provide documentation confirming the leave is medically necessary.

(H) Certification of a qualifying event

(1) A request for FMLA must be substantiated with satisfactory certification provided within fifteen calendar days of the request for leave. If the leave is due to a serious health condition of the employee, employee's immediate family member, or covered service member, certification must be submitted by an appropriate health care provider. Certification must be provided on the proper form available in the human resources department. If the leave is due to adoption, foster care placement, active duty leave, or covered active duty leave, documentation must be submitted from the appropriate agency.

(2) The college reserves the right to request a second opinion if the validity of the certification is questioned. This is done at the college's selection and expense.

(3) If necessary, to resolve a conflict between the original certification and the second opinion, the



college and the employee will mutually select a third health care provider at the college's expense. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion. The college may deny FMLA to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion.

(4) The college will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a delay or denial of leave.

(5) The college will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a delay or denial of leave.

(6) The college may request recertification for the serious health condition of the employee or the employees immediate family member, no more frequently than every thirty days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of their leave. Otherwise, the college may request recertification for the serious health condition of the employee or the employees immediate family member every six months in connection with an FMLA absence. In no instance will leave of any type extend beyond one calendar year. In compliance with HIPAA medical privacy rules, the college will obtain the employee or the employees immediate family members permission to obtain clarification on any individually identifiable health information in the case of recertification.

(7) Failure to comply with the colleges request for documentation may result in discipline. The college will refer to the corrective action and discipline policy in these situations.