

**1. Purpose**

- 1.1.** To define the Tooele Applied Technology College (TATC) policy and procedure with regard to family and medical leave. The College recognizes the occasional need for time away from work to participate in early childrearing, one's own serious illness, or the care of family members who have serious health conditions. This policy is intended to assist employees of the College in better balancing those family needs with work place demands. The provisions of this policy shall not supersede any federal or state law that provides greater employee leave benefits and/or rights than are offered in this policy.

**2. References**

- 2.1.** Family and Medical Leave Act (FMLA), 29 USC 2601

**3. Policy**

- 3.1. General Information.** Employees who have been employed for at least twelve (12) months, and have worked at least 1,250 hours during the preceding 12-month period are eligible for leave under the FMLA. Leave is calculated as twelve (12) weeks in a twelve (12) month period from the first date leave is used, rather than on a calendar year. Employees who meet the applicable time-of-service requirements may be granted a combined total of twelve (12) weeks of paid vacation and sick leave and unpaid family leave, to begin the first day of the leave for each incident.

**3.1.1.** For employees not eligible for leave under the FMLA, the College will review business considerations and the individual circumstances involved in light of other leave policies.

**3.1.2.** Family or medical leave will consist of appropriate accrued paid leave and unpaid leave. If family medical leave is granted, the employee must use all of his/her accrued paid vacation leave and sick leave for the first portion of the FMLA leave or until available vacation and sick leave are exhausted. The remainder of the leave period will then consist of unpaid leave. Leave which has been advance posted to the employee's account at the beginning of the year but has not yet been earned will not be available for use prior to going to leave without pay status.

**3.1.3.** Leave taken for serious health conditions may be taken on an intermittent basis (not all at one time) only when medically necessary and when verified by medical certification. The College may require an employee on intermittent leave to transfer temporarily to an available alternative position for which the employee is qualified if the position has equivalent pay and benefits and accommodates recurring periods of leave more easily than the employee's regular position. The College may also require an individual to take their intermittent leave all at once if necessary.

**3.1.4.** Intermittent leave cannot be taken for birth, adoption, or foster care purposes. If approved, leave for birth, adoption, or foster care purposes must be taken within twelve (12) months of the birth or placement.

**3.1.5.** An employee on leave under the FMLA must notify his/her supervisor periodically of his/her status and intention to return to work. The supervisor has the authority to determine how often the employee must provide this notification.

- 3.2. Reasons for Leave.** Family Leave may be used for the following reasons:

**3.2.1.** The birth of the employee's child and in order to care for the child;

- 3.2.2. The placement of a child with the employee for adoption or foster care;
  - 3.2.3. To care for a spouse, parent, or child who has a serious health condition; or
  - 3.2.4. A serious health condition that renders the employee incapable of performing the functions of his or her job.
  - 3.2.5. Where the College employs both spouses, they are entitled to a combined twelve (12) workweeks of family leave for the birth or placement of a child, for adoption or foster care.
- 3.3. Application for Leave.** An employee requesting leave under the FMLA must complete a College Leave Request noting 'Family Medical Leave' and return it to the immediate Supervisor and Human Resource Office for consideration. The completed application must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave if possible.
- 3.4. Notice of Leave.** An employee intending to take leave under the FMLA because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days before the leave is to begin. If the leave is to begin in less than thirty (30) days, an employee must give notice to his or her immediate supervisor and to the Human Resource Office as soon as the necessity for the leave arises.
- 3.4.1. The employee will be notified of the leave request approval or denial within two (2) working days of receipt of acceptable medical certification.
  - 3.4.2. Notification to employees shall include: that the leave will be counted as FMLA entitlement; any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so; a statement that the employee will be required to exhaust unused sick leave and vacation leave before going into a Leave Without Pay (LWOP) status; any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis; and any requirement for the employee to present a fitness for duty certificate to be restored to employment.
  - 3.4.3. The College may designate leave under the FMLA as approved or denied after the fact if the reason for leave was previously unknown, or the College has preliminarily designated the leave as FMLA leave and is awaiting medical certification.
- 3.5. Return to Work.** An employee who took leave under the FMLA for his/her own medical condition must provide a release to duty from their physician before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's planned return.
- 3.5.1. The College shall continue to pay its portion of the employee's group health insurance premium during the family leave period. The employee is responsible to continue to pay his or her portion of the insurance premium in order to keep coverage in effect. If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the College for full payment of any portion of the insurance premiums paid by the College.
  - 3.5.2. The failure of an employee to return to work upon the expiration of a leave under the FMLA of absence will subject the employee to immediate termination.
- 3.6. Seniority and Benefit Accruals.** An employee who takes leave under the FMLA will not lose any seniority or employment benefits that accrued before the date leave began. An employee is not entitled to the accrual of seniority or employment benefits while on leave without pay status.

**3.7. Employment Restoration.** Every effort will be made to place the employee in a position with equivalent pay, benefits, and other terms and conditions of employment. The College will make a determination as to whether a position is an “equivalent position”. An employee granted leave under the FMLA does not have a guarantee to be returned to his or her original job, nor continuation or payment of benefits.