



ST. NORBERT COLLEGE FAMILY AND MEDICAL LEAVE POLICY

St. Norbert College (the “College”) provides unpaid Family and Medical Leave to eligible employees in accordance with both the Wisconsin and Federal Family and Medical Leave laws. Eligibility for benefits is defined by those statutes and supporting regulations. The following summarizes some of the provisions of the laws as well as the respective obligations of employees and the College

SECTION 1. Wisconsin Family and Medical Leave Provisions

Section 1.1 Personal Medical Leave: An eligible employee who has a “serious health condition” (as that term is defined) which prevents the employee from performing his or her job duties may take up to two (2) weeks of unpaid leave during any calendar year.

Section 1.2 Family and Family Medical Leave: An eligible employee, male or female, may take up to six (6) weeks of leave in any calendar year for the birth or adoption of the employee’s natural or adoptive child. The leave must begin within (before or after) sixteen (16) weeks of the child’s birth or placement for adoption. An eligible employee, male or female, may also take up to two (2) weeks of leave in any calendar year to care for the employee’s child, spouse, domestic partner, parent of the employee or parent of the employee’s spouse who has a “serious health condition” (as that term is defined). “Child” includes a minor child or an adult child who cannot care for themselves because of a “serious health condition”. “Domestic Partner” is either someone over 18 of the same sex as the employee who has registered their status with the Register of Deeds in the county of residence, or someone over 18 living in the same household as the employee who is not related and who is mutually responsible for each other’s living expenses and may be the same gender or not, and who are not registered with the Register of Deeds. The leave taken for any of the reasons in this section may not exceed eight (8) weeks in any calendar year.

Section 1.3 Eligibility: In order to qualify for leave, the employee must be a Wisconsin employee and must have worked for the College for at least fifty-two (52) consecutive workweeks and at least one thousand (1,000) hours during the 52-week period preceding the leave.

Section 1.4 Serious Health Condition: A “serious health condition” exists only when the employee or family member suffers from a “disabling physical or mental illness, injury, impairment or condition” and must involve either:

- inpatient care in a hospital, nursing home, or hospice; or
- outpatient care that requires continuing treatment or supervision by a health care provider.

Section 1.5 Certifications: The College may require the employee, prior to approving personal or family medical leave, to obtain, at employee's expense, a Certification form signed by the employee or family member's health care provider, confirming the facts relating to the claimed "serious health condition". The employee shall have *15 days* from the College's request for a Certification to obtain and return the Certification form to the College. If the Certification is not returned in a timely manner, leave can be disapproved or delayed. The College also has the right to obtain a second opinion, at the College's cost, concerning whether a "serious health condition" exists.

Section 1.6 Requests for Wisconsin FMLA Leave: The employee must notify the College within the appropriate time limits of a request for FMLA leave. The College has a written FMLA Leave Request Form which employees are to use to seek leave. Copies of the form are available from Human Resources or their website at http://www.snc.edu/hr/documents.html?d=/Benefit_Forms_+_Resources and are to be returned to Human Resources.

- Birth or Adoptions: Employees are encouraged to discuss their requests for leave for a birth or adoption as soon as possible, but at least thirty (30) days prior to the leave, unless it is unreasonable or impractical to do so under the particular circumstances. Employees must reasonably consider the needs of the College in selecting the dates for such leave.
- Planned Medical Treatment: If employee seeks leave because of the planned medical treatment of the employee or employee's family member, employee is encouraged to discuss their request for leave as soon as possible, but at least 30 days prior to the leave, unless it is unreasonable or impractical to do so under the particular circumstances. Employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the College's operations (subject to the approval of the health care provider).
- Unplanned Medical Treatment: If employee seeks leave for treatment of a "serious health condition" that was unplanned, then employee or employee's family are requested to notify the College *within 2 workdays* or as soon as possible under the circumstances of their absence.

Section 1.7 Substitution of Paid Leave During Unpaid Wisconsin FMLA: Employees are not entitled to receive pay while on FMLA leave. However, an employee may substitute any accrued, unused, paid leave in place of the unpaid FMLA leave. If the employee wishes to substitute paid leave, he or she must notify the College within a reasonable timeframe.

Section 1.8 Intermittent Wisconsin FMLA Leave: Employees may take state FMLA leave as partial absences instead of one continuous block of time. However, partial absences for family leave may only be scheduled if they do not unduly disrupt the College's operations. Partial absences for medical leave may be scheduled as medically necessary, and, if for employee's personal medical condition, only when employee is unable to perform their duties.

SECTION 2. Federal Family and Medical Leave Provisions

Section 2.1 Personal or Family Medical Leave: An eligible employee may take up to twelve (12) weeks of leave in a 12 month period if they, or their spouse, child or parent, have a “serious health condition” as that term is defined below.

Section 2.2 Family Leave: An eligible employee, male or female, may take up to twelve (12) weeks of leave in a 12 month period for the birth of the employee’s natural child, or the placement of a child with the employee for adoption or as a pre-condition to adoption or foster care. The leave must be completed within twelve (12) months of the birth, adoption, or placement, if related to those causes.

Section 2.3 Leave for Exigencies Due to Family Member Call to Active Service: An eligible employee may take up to twelve (12) weeks of leave in a 12 month period for a “qualifying exigency”, as defined below, when the employee’s spouse, child or parent is a member of the Armed Forces (including the National Guard and Reserves) and is on covered active duty or has been notified of an impending call or order to covered active duty in a foreign country.

Section 2.4 Leave to Care for Military Injury or Illness of Family Member: An eligible employee may take up to twenty-six (26) weeks of leave in a 12 month period to care for the employee’s spouse, parent, child or next of kin who is an active member of the Armed Forces (including the National Guard or Reserves) who is receiving medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability retired list due to suffering a serious illness or injury incurred in the line of active duty, or the serious illness or injury was aggravated by service in the line of duty on active duty, or is a veteran undergoing medical treatment, recuperation or therapy for a serious injury/illness that was sustained or aggravated any time during the five (5) years preceding the treatment .

Section 2.5. Definition of “12 Month Period” and Combined Totals of Available Leave: The 12 month period referenced in Sections 2.1, 2.2 and 2.3, above, is calendar year. Employees are entitled to a combined total of 12 weeks of leave in that 12-month period for purposes described in those sections 2.1, 2.2 and 2.3. Leaves that qualify for more than one reason under sections 2.1, 2.2, and 2.3 run concurrently with each other. The 12-month period referenced in section 2.4, above, shall be a 12- month period measured from the first day of the leave to care for the military injury or illness of the family member, and employees are entitled to no more than 26 weeks of combined leave under sections 2.1, 2.2, 2.3 and 2.4 in that 12-month period. Leave under section 2.4 that also qualifies under sections 2.1, 2.2, or 2.3 shall be first designated as leave under section 2.4, and does not run concurrently, but exhausts the total available 26 weeks of leave during that 12-month time period.

Section 2.6 Spouses: Spouses both employed by the College are jointly entitled to a combined total of 12 weeks of leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition and to a combined total of 26 weeks of leave to care for a family member with a military injury or illness.

Section 2.7 Eligibility: In order to qualify for leave, an employee must work at or within 75 miles of a workplace operated by the College which has 50 or more employees. The

employee must have worked for the College for at least twelve (12) months (need not be consecutive) and for at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12)- month period.

Section 2.8 “Serious Health Condition”: The term “serious health condition” is defined as an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or “continuing treatment” by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

The term “continuing treatment” means that the person is incapacitated for more than 3 consecutive calendar days and either:

- Has had at least two personal visits to a health care provider within thirty (30) days of the start of incapacity (and the first visit must occur within seven (7) days of the first day of incapacity) or
- Has had at least one personal visit to a health care provider within seven (7) days of the first day of incapacity which results in a regimen of continuing treatment under the health care provider’s supervision.

“Continuing treatment also includes:

- A period of incapacity or treatment for such incapacity due to pregnancy or for prenatal care; or
- A period of incapacity or treatment for such incapacity for a chronic condition which requires at least two (2) personal visits to a health care provider per year; continues over an extended period of time, and causes episodic rather than a continued period of incapacity (possible examples: asthma, diabetes, epilepsy); or
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. A person must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (possible examples: Alzheimer’s, severe stroke, terminal stages of cancer/AIDS); or
- Any period of absence to receive multiple treatments for restorative surgery after an injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention (possible examples: chemotherapy, kidney dialysis).

Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease are examples of conditions that do not meet the definition of “serious health condition” and do not qualify for FMLA leave.

Section 2.9 “Qualifying Exigency”: The term “qualifying exigency” includes the following circumstances in which leave under Section 2.3, above is available:

- For any issue that arises due to the fact that the family member was called to active duty seven or less days prior to the date of deployment (leave is limited to a total of seven (7) days for this qualifying exigency)
- To attend official ceremonies, programs or events sponsored by the military and relating to the call to active duty

- To attend family support or assistance programs and information briefings sponsored by the military or Red Cross that are related to the call to active duty
- To arrange for alternative childcare, provide childcare on an urgent, immediate need basis (but not on a routine, regular or every day basis), enroll a child in a school or day care, or to attend school or day care meetings, arising from covered active duty or the call to active duty
- To undertake certain activities arising from covered active duty related to care of the military member's parent who is incapable of self-care, such as arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility and attending certain meetings with staff at a care facility
- To make financial or legal arrangements arising from the family member's absence due to covered active duty or the call to active duty
- To obtain counseling or attend counseling for a family member arising from covered active duty or the call to active duty
- To spend periods of time, up to fifteen (15) days each, with the military member who is on short-term, temporary Rest and Recuperation leave during the period of deployment
- To attend to post-deployment matters such as ceremonies, reintegration briefings and events, or other programs within 90 days of the end of active service or to make funeral arrangements
- To attend to any other matters that the College may agree to in connection with the active call to duty

Section 2.10 Certifications: The College may require an employee to obtain, at their expense, a certification of an employee's or employee family member's "serious health condition" by their health care provider. The College may also require a second or third opinion from a health care provider at its expense.

For "qualifying exigency" leave, the College may require the employee to provide a copy of the service member's active duty orders and complete a certification form documenting the timing, reasons and circumstances of the "exigency".

For leave to care for a covered servicemember, the College may require the employee to provide proof of the servicemember's military service and obtain certification of the injury or illness on a form provided by the College.

Recertifications may also be required. If the College should deem any certification to be incomplete or insufficient, the College will identify what information is lacking, and give the employee seven (7) calendar days to cure the deficiency. Failure to obtain and return any certification may result in a delay or denial of leave.

Section 2.11. Requests for FMLA Leave: The employee must notify the College within the appropriate time limits of a request for FMLA leave. The College has a written FMLA Leave Request Form which employees are to use to seek leave. Copies of the form are available from Human Resources or their website at http://www.snc.edu/hr/documents.html?d=/Benefit_Forms_+_Resources and are to be returned to Human Resources.

Employees must provide sufficient information for the College to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. This includes, but is not limited to, whether the employee is unable to perform job functions, whether the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform the College if the requested leave is for a reason for which FMLA leave was previously taken or certified.

- Foreseeable Leave (Example: births, adoptions, foster care, planned medical treatments): Employees must provide at least thirty (30) days notice prior to the start of the leave, unless it is impractical to do so because of the lack of information concerning the leave commencement date, in which case the notice must be given as soon as such information is available to allow notice. Employees must make reasonable efforts to schedule leave for planned medical treatments so as not to unduly disrupt the College's operations.
- Unforeseeable Leave (Unplanned medical treatment, unplanned qualifying exigencies due to calls to active duty): If employee seeks leave for leave that was not foreseeable, notice must be provided within 2 workdays or, if unusual circumstances prevent notice from being provided, then notice must be provided as soon as practicable.
- Clarification of Requests: If the College needs clarification about the request or potential need for FMLA leave, the employee must cooperate and promptly respond to requests for such clarification. Failure to do so may result in a denial of leave.

Section 2.12 Substitution of Paid Leave During Unpaid FMLA: Employees are not entitled to receive pay while on FMLA leave. However, employees may choose, or the College may require, use of accrued, unused, paid leave during the unpaid FMLA leave to the extent employee qualifies for the paid leave according to the terms and conditions of such leave. If the employee wishes to substitute paid leave, he or she must notify the College at the time of the leave request or as soon thereafter as practical.

Section 2.13 Intermittent FMLA Leave: Employees may take leave intermittently or on a reduced leave schedule when medically necessary or when due to qualifying exigencies. Intermittent family leave may be taken only with the College's approval. An employee seeking intermittent FMLA leave must follow the College's call-in procedures for reporting an absence, absent unusual or extraordinary circumstances.

SECTION 3. Insurance Coverage and Other Benefits

Section 3.1 No Loss of Accrued Benefits: Employees will not, as a result of taking FMLA leave, lose any benefit that accrued prior to the start of FMLA leave. However, no employee will be entitled to the accrual of any employment benefit during FMLA leave, nor will any employee be entitled to any benefit or position to which the employee would not have been entitled had he or she not taken FMLA leave.

Section 3.2 Medical Benefits: The College will maintain group health insurance coverage during the FMLA leave under the same conditions that applied immediately before the

leave began. If the employee was not covered by a group health benefit prior to taking FMLA leave, they will not be eligible during leave. If an employee decides not to continue insurance coverage during the leave, the employee's insurance will be reinstated upon the employee's return to work. Any changes made to the health insurance plan during the leave will apply to the employee in the same manner as if he/she were actively working.

Section 3.3 Payment of Premiums: During FMLA leave, the College will continue paying its share of medical premiums as long as the employee makes timely payments of employee's share of premiums in the same proportions as prior to the leave. If paid leave is substituted during FMLA leave and/or employee is receiving short-term disability pay, employee's share of premiums will be deducted from the paid leave and/or short-term disability payment. If the paid leave or disability payment is insufficient, then employee will need to discuss arrangements for paying those premiums with the College.

An Employee on FMLA Leave may elect to continue their participation in their health care FlexSpend Account during their period of leave. If they elect to continue participation, the Employee will be required to pay their contributions during the leave period. This may be done by either prepaying their contribution amount, or by paying on a regularly scheduled basis during their leave. If paid leave is substituted during FMLA leave and/or employee is receiving short-term disability pay, employee's share of premiums will be deducted from the paid leave and/or short-term disability payment. If an Employee elects not to continue their participation, that Employee cannot claim any reimbursement for expenses incurred while on FMLA Leave.

Dependent Care Accounts may not be continued during an FMLA Leave.

Section 3.4 Failure to Return at the End of FMLA: If an employee, for reasons within their control, terminates employment after the expiration of the leave, the employee may be required to reimburse the College for the costs of insurance which it paid for the employee during the leave. Health insurance benefits will terminate at the end of the month in which the leave expired. Medical plan continuation may be available, under the federal COBRA law, subject to the terms of the College's plan. If the employee elects COBRA continuation, the employee must pay the applicable COBRA premiums.

SECTION 4. Returning to Work after FMLA Leave

Section 4.1 Fitness for Duty Certificates: The College may require employees to secure a Fitness for Duty Certificate from the employee's health care provider, clearing the employee to return to their job, before reinstating the employee to work.

Section 4.2 Return to Work: Upon expiration of FMLA leave, if the employee is medically able and certified to return, the employee will be restored to the employee's regular job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee whose leave has expired and who is unable to perform his or her job, or an employee whose job is eliminated due to reasons other than the employee's leave (such as a reduction in workforce), may be subject to termination of employment.

SECTION 5. Coordination of Wisconsin and Federal FMLA and Other College Leave

Section 5.1 Concurrent Leave Calculation: Eligible employees may take any combination of Wisconsin or Federal Family and Medical Leave, but these entitlements run concurrently (except for care of a qualified servicemember, which is defined above). The beginning of a twelve (12) week period which qualifies under both laws is a combination of Federal and Wisconsin leave, and any leave extending after the Wisconsin leave expires is solely Federal leave. When separate 12 month periods are used for Wisconsin and Federal FMLA, the leave will run concurrent when both are available at the time of the leave.

Section 5.2 Matching Rights and Restrictions: When an employee requests leave, the College will inform the employee whether the leave qualifies for Wisconsin Family and Medical Leave, Federal Family and Medical Leave or both types. If any portion of the leave qualifies only for Wisconsin Family and Medical Leave, the employee is only entitled to the rights granted under Wisconsin law during such portion of the employee's leave. If any portion of the leave qualifies for both Federal and Wisconsin Family and Medical Leave, the employee is entitled to the provisions of each law providing greater rights to the employee during such portion of the employee's leave. If any portion of the leave qualifies only for Federal leave, the employee is entitled to the rights offered by the federal law during that portion of the employee's leave.

Section 5.3 Other College Leave: FMLA leave also runs concurrently with some other types of leave which may be provided by the College, such as workers compensation, sick leave, short-term disability, or other time off for injuries or illnesses.

SECTION 6. Administration of FMLA Leave

Section 6.1 College Response to Leave Requests: Following receipt or notice of an employee's request or need for leave, the College will provide the employee with a response indicating whether the employee is eligible for the leave and if not, why not. If the employee is eligible, he or she will receive additional information including their rights and responsibilities, and the College will inform them of the amount of designated FMLA leave counted against their leave entitlement.

Section 6.2 College Contact for Information: Any employee who has questions concerning their leave rights should contact the Human Resource Department to discuss eligibility and procedures.

Section 6.3 Government Contacts: Employees may file complaints for violations of the Federal FMLA with the Department of Labor or may bring a private lawsuit against the College. The Federal FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights. Employees may contact the Wisconsin Department of Workforce Development for violations of the Wisconsin FMLA. Prior to pursuing any form of legal claim, employees are encouraged to discuss their concerns with the College contact described in section 7.1 below.

Section 6.4 Status of FMLA Policy if College No Longer a Covered Employer: In the event that the College is no longer required by state or federal law to provide FMLA leave to its employees, the College may, at its option, continue to provide the same or similar benefits as

described in this policy, but employees will not be entitled to exercise legal remedies under either the state or federal FMLA law.

SECTION 7. Prohibitions Relating to FMLA Leave

Section 7.1 Prohibition on Harassment or Retaliation by Employees: No employee shall engage in any form of harassment or retaliation against any employee who seeks or obtains any leave under this policy. Any employee who feels that they have been victimized should immediately report any such conduct to their supervisor and/or the Director of Human Resources or, if they are unavailable, to any Vice President/President of the College.

Section 7.2 Prohibition on Interference or Retaliation by College: It is unlawful for the College to interfere with, restrain, or deny the exercise of any right provided under the FMLA or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA. Any employee who feels that they have been victimized should immediately report any such conduct to their supervisor and/or the Director of Human Resources or, if they are unavailable, to any Vice President/President of the College.

Section 7.3 Fraudulent Use of FMLA or False Statements in Relation to FMLA Use: Any employee who obtains or requests FMLA leave under fraudulent circumstances or who provides any false information or statements in connection with FMLA leave may face corrective action up to and including termination of employment.

Section 7.4 No Moonlighting: No employee who is on FMLA or any other type of personal leave of absence, sick leave, workers compensation leave, short- or long-term disability leave and similar leaves shall engage in any other work. Employees who have regular or part-time positions in addition to working for the College are not precluded from working their normal hours for that other job except when they are on leave from the College due to their own medical condition.

Section 7.5 Compliance with Other College Policies: Employees must comply with all other College policies while seeking FMLA leave, being off on FMLA leave and returning from FMLA leave, except as those policies may be superceded by state or federal FMLA laws.