

**AIMS COMMUNITY COLLEGE PROCEDURE**

**LEAVE**

**Purpose:** This procedure establishes the administrative requirements for the implementation of Policy 4-1600. It is an employee’s obligation to provide advance notice, at least two weeks when possible, of anticipated absences from position duties. All absences from position duties are to be documented by the completion of a leave request form. Leave is subject to the approval of the supervisor and/or President when applicable.

Unless otherwise noted, the following leave is granted to College benefited employees.

**A. HOLIDAY LEAVE**

Aims recognizes the following holidays which will be observed as follows:

- New Year’s Day,
- Martin Luther King Jr. Day,
- Memorial Day
- Independence Day,
- Labor Day,
- Thanksgiving Day, as well as the day preceding and following Thanksgiving Day, and
- Christmas week (The College will be closed the week in which Christmas falls; for example, the week preceding if Christmas falls on a Saturday or the week following if Christmas falls on a Sunday or as otherwise declared by the President).

If a holiday falls on a Saturday, it will be observed on the preceding Friday. If the holiday falls on a Sunday, it will be observed on the following Monday. The President will approve publication of the Holiday schedule each year. The holiday schedule will be updated and posted annually on the intranet by Human Resources.

To be eligible to receive holiday pay, an employee must be on paid work or leave the day before and after the holiday.

**B. ANNUAL LEAVE**

Annual leave accrues at the following rates:

Senior Management and Administrators

1 <sup>st</sup> year and greater	176 hours per fiscal year (14.67 hours per month)
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Exempt Staff

1 <sup>st</sup> through 2 <sup>nd</sup> year	120 hours per fiscal year (10 hours per month)
3 <sup>rd</sup> year and greater	160 hours per fiscal year (13.33 hours per month)

Nonexempt Staff

1 <sup>st</sup> through 2 <sup>nd</sup> year	80 hours per fiscal year (6.66 hours per month)
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3 <sup>rd</sup> year through 5 <sup>th</sup> year	96 hours per fiscal year (8 hours per month)
6 <sup>th</sup> year through 9 <sup>th</sup> year	120 hours per fiscal year (10 hours per month)
10 <sup>th</sup> year and greater	160 hours per fiscal year (13.33 hours per month)

1. Should a position change FLSA status from exempt to non-exempt, the current incumbent in the position will be held harmless at their current accrual rate.
2. Accumulated annual leave shall not exceed 320 hours at the end of a fiscal year. Under extenuating circumstances, the President may approve retention of leave greater than 320 hours at the beginning of a fiscal year. The excess leave must be used within 60 days from the beginning of the fiscal year or it will be withdrawn.
3. An employee shall be paid for annual leave at the employee's last rate of hourly pay, not to exceed accumulated leave of 320 hours, at the time of separation.
4. Requests for non-emergent use of annual leave should be preceded by at least two weeks notice to the supervisor. Unanticipated use of leave should be preceded by as much notice as possible to the supervisor.
5. A supervisor may deny use of leave based upon operational requirements of the department. If several employees request leave for the same period, the supervisor shall use discretion in granting the leave, subject to the operational needs of the department and the relative seniority of the employees.
6. If an employee becomes sick while on annual leave, associated time spent while sick may be transferred to use of sick instead of annual leave.
7. Staff rehired within 6 months from their date of separation shall have their leave accrual rate upon separation reinstated.

### **C. SICK LEAVE**

Employees hired prior to July 1, 2009, will be granted 10.67 hours of sick leave per month, and employees hired on or after July 1, 2009, will be granted 8 hours of sick leave per month. Sick leave for all employees, regardless of hire date, will be prorated according to the portion of the month the employee has worked. Sick leave is subject to the following terms and conditions:

1. Accumulation of Sick Leave: A maximum of 640 hours, regardless of employee's annual employment term (i.e. 9-month, 10-month, 12-month), may be maintained at the end of any fiscal year.
2. Payment of Unused Sick Leave Balances:
  - a. Continued Employment:
    - i. Employees hired on or before June 30, 2009 who have accumulated sick leave in excess of 640 hours will receive a cash payment of one-fourth of the employee's sick leave balance in excess of 640 at the employees prevailing rate of pay on the last work day of the fiscal year in which the leave is exchanged. Fewer than four hours of excess sick leave will be proportionally converted.
    - ii. Employees hired on or after July 1, 2009 are not eligible to receive payment for any sick leave balance over 640 hours.
  - b. Upon Separation:
    - i. Benefited employees hired prior to July 1, 1997, who had completed 15 years of continuous employment and accrued 640 hours of sick leave by June 30, 2006, shall be

paid for any remaining accrued sick leave up to 640 hours at one-third of their current hourly rate and for any additional hours accrued during the fiscal year in which they leave employment at the rate one-quarter of the employee's prevailing rate of pay on the last day of work.

- ii. Any such employees who accrued fewer than 640 hours as of June 30, 2006, upon leaving employment will be paid at one-third of their current hourly rate for the hours accrued prior to June 30, 2006 and at the rate of one-quarter of the employee's prevailing rate of pay on the last day of work for hours accrued thereafter.
  - iii. Employees hired on or after July 1, 1997 but no later than June 30, 2009, who during their career reach an accumulation of 640 hours of unused sick leave, shall be paid upon separation for unused sick leave at the rate of one-fourth of the employee's sick leave balance at the time of separation at the employee's prevailing rate of pay on the last day of work. Payout for unused sick leave will not exceed one-fourth of 640 hours.
  - iv. Employees hired on or after July 1, 2009 are not eligible to receive payment for any sick leave upon separation of employment.
3. Use of Sick Leave: Sick leave may be used for an employee's personal illness, injury or need for medical or dental care; exposure to contagious disease; attending to members of the employee's immediate family (employee's parents, stepparents, spouse, children, step-children, brother, sister, stepbrother, stepsister, grandparent, grandchild, son-in-law, daughter-in-law or another member of the immediate household) when the employee's presence is required because of illness in the immediate family. (NOTE: The definition of family under sick leave is different than Family Medical and Bereavement Leave). In additional and extenuating circumstances, the President may authorize use of sick leave. Whenever possible, the employee shall provide their supervisor with two weeks notice before any planned absence.
- a. Faculty may not use sick leave for absence during non-contracted work time (i.e. for absences during overload appointments)
4. Documentation: The supervisor shall require documentation from employee's healthcare provider (see section on Family Medical Leave Act for definition) after sick leave is used for three or more consecutive workdays.
- a. If use of sick leave suggests applicability of the Family Medical Leave Act (FMLA), the supervisor shall notify Human Resources as soon as possible. A Human Resources representative will determine eligibility and designation of FML as appropriate. (See section on FMLA for details).
  - b. A supervisor may require documentation from employee's healthcare provider if it appears that the use of sick leave is abusive. Use of sick leave after notice of separation of employment requires documentation from health care provider.
5. Employees who leave the College's employment and are rehired within six months shall have sick leave reinstated if it has not been subject to a payout.
6. When accrued sick leave is exhausted, annual leave will be used.

#### **D. OTHER LEAVE**

1. **Military Leave:** Military leave shall be afforded to employees for training and/or active duty. Leave for either purpose is unpaid.

- a. **Training:** A maximum of 15 days within the prescribed Federal fiscal year (Oct 1<sup>st</sup> through Sept 30<sup>th</sup>) for encampment or equivalent. Personal or annual leave may be used or the employee may choose to go on leave without pay, which under this circumstance does not require prior approval from the President. Accrual of sick and/or annual leave will not be prorated, if the employee is on leave without pay for this purpose.
  - b. **Active Duty:** The College will comply with applicable State/federal laws and PERA rules/regulations regarding employees who receive orders for active duty. Employees are required to provide military orders. There is no accrual of leave when an employee is on leave without pay for this purpose.
2. **Jury Duty:** The College shall comply with the Colorado Uniform Jury Selection and Service Act, C.R.S. §13-71-101 et seq. as well as other applicable laws.
- a. Employees are entitled to receive their first three days of jury duty as paid time off, since compensation is not provided by the court. Non-benefited employees who have a defined schedule will be paid for their normal work schedule during the term of their jury duty.
  - b. After day three of jury duty, the State provides juror compensation. If an employee's wages are less than their juror compensation, s/he may choose to not be paid by the College and retain their State juror compensation. If, however, the employee chooses to receive paid jury leave from the College, they must submit their State juror compensation to the College (Cashiers Office). College compensation to non-benefited employees will be based on the employee's normal work schedule during the term of their jury duty.
  - c. The employee is required to provide a copy of the summons to their supervisor as documentation for jury duty. If the employee is benefited, the summons should be attached to the employee's leave form. If the employee is not benefited, the summons should be attached to the employee's timesheet as applicable.
3. **Personal Leave:** 12-month employees shall be granted 24 hours of personal leave; 9-month employees shall be granted 16 hours of personal leave per fiscal year. Staff and administrators hired on a prorated annual appointment will have their personal leave prorated accordingly. Faculty starting the Fall Semester and contracted for a full academic year (Fall and Spring Semesters) shall be granted 16 hours of personal leave; faculty starting the Spring Semester shall be granted 8 hours of personal leave. Faculty appointments commencing after the start of either Fall or Spring semester will have personal leave prorated accordingly.
- a. Personal leave is granted immediately upon hire or, for continued appointments, upon the start of each fiscal year, and may be used from the time it is granted for any purpose the employee chooses.
  - b. Personal leave shall not be used beyond the fiscal year in which it is granted. Unused personal leave shall not be paid out upon separation of employment. Personal leave may not be used once notice of separation of employment has been submitted.
  - c. When feasible, the employee will provide their supervisor with two weeks prior notice when requesting use of personal leave.
  - d. Faculty may not use personal leave for absence during non-contracted work time (i.e. for absences during overload appointments)
4. **Bereavement Leave:** Employees may be afforded funeral or bereavement leave for a period up to three days per incident. Bereavement leave may be used for the death of an employee's

immediate family member (employee's parents, step-parents, spouse, children, step-children brother, sister, step-brother, step-sister, grandparent, grandchild, son-in-law, daughter-in-law or another member of the immediate household) or extended family member (employee's aunts, uncles, cousins, and in-laws). (NOTE: The definition of family under bereavement leave is different than FML and sick leave).

- a. Leave in excess of three days, when approved, may be charged to sick leave.
  - b. Supervisors may request employees to provide supporting documentation to verify request for leave.
  - c. Extenuating circumstances for additional paid leave may be approved by the President.
5. **Other Paid Leave:** Employees may receive paid leave for various activities and purposes that serve the good of the College or good of the community when it is approved by the appropriate supervisor or President as defined herein.
- a. Leave to attend professional meetings and/or conferences contributing to the well being of the College or the improvement of professional standards of an employee are to comply with the College's Travel Policy when applicable. If no costs are incurred for an employee to participate in such an activity, the employee must still obtain prior approval from their supervisor who, in turn, will acknowledge the employee's absence through internal departmental procedures.
  - b. Leave with pay may be granted for any reason deemed by the President to be in the best interest of the College including but not limited to EAP counseling, directed by appropriate College personnel, during a period of investigation into an employee's activities, and as otherwise deemed appropriate by the President.
  - c. Leave with pay may be granted for **non-paid** volunteer services according to the following:
    - i. Local/Community Volunteer: Eligible activities include: Academic activities in the schools (public or private: elementary, middle, high or child care program); community service organization (defined as a non-profit, non-partisan community organization that is designated as an IRS Code 501(c)(3) agency), or a human service organization licensed and accredited to serve citizens with special needs including children, youth and the elderly. (NOTE: Although religious organizations may be 501(c)(3) agencies, community service cannot be used for any activity that promotes religious beliefs). A maximum of 5 hours (non-cumulative) per month (not to exceed 30 hours per year) for full-time benefited employees; part-time benefited employees time will be prorated accordingly. Requests must be made in advance, in writing, and require supervisor approval. The employee is to make reasonable attempts to schedule activity outside of their regular work hours. The College is not liable for accident or injury while the employee is performing local/community volunteer work.
    - ii. National Volunteer: An employee who is a disaster service volunteer of the American Red Cross who has completed the required training for the specialty, is registered with the Red Cross and is requested by the Red Cross to perform services. Written verification for volunteer activity is required. Requests must be made in advance and require President's approval. There is no designated amount of paid time off for this purpose (President's discretion). While performing volunteer services, the employee is paid at his/her regular pay. There is no charge to the employee's leave balances. Duties performed as a volunteer are not counted as work

time for purposes of calculating overtime. The College is not liable for accident or injury while the employee is on a disaster service assignment.

- iii. K-12 Parental Leave: Eligible activities include academic activity in the schools (public or private: elementary, middle, high or child care program). Employees who are the child's parent or legal guardian are eligible for parental leave. A maximum limit of 5 hours (non-cumulative) per month (not to exceed 30 hours per year) for full-time benefited employees; part-time benefited employees time will be prorated accordingly. Eligible employees may use up to 2.5 hours maximum per time. Requests must be made in advance, in writing, and requires supervisor approval. The employee is to make reasonable attempts to schedule the activity outside of their regular work hours. The College is not liable for accident or injury while the employee is on leave.

6. **Leave Without Pay:** Leave without pay may be granted to employees who plan to maintain their employment with the College, when there is good reason, and the absence of the employee will not cause a hardship to the College.

- a. Leave without pay may be granted to employees upon approval by the appropriate supervisor, Senior Management member, and President. It may be granted after an employee has exhausted all of their available paid leave (i.e. sick, annual, personal).
- b. Leave without pay for purposes of compliance with the FMLA and USERRA does not require approval of the supervisor, Senior Management, or President.
- c. Employees granted leave without pay will be responsible for 100% of insurance benefit premium coverage beginning one month after the commencement of leave. NOTE: Being on leave without pay and FML is a qualifying event to drop insurance while employee is on leave without pay and reinstatement upon employee's return to work.
- d. Leave benefits will be prorated for periods of absence without pay unless prescribed otherwise.
- e. Consulting: Employees may use unpaid leave up to a maximum of three days per year for consulting purposes. Prior approval of the President is required. The College's Conflict of Interest Policy is applicable. Leave accrual will be prorated while employee is on consulting leave.
- f. Voting: The College shall comply with employee rights afforded by State and federal law. Paid leave is not provided by the College.
- g. Religious Observance: Employees may use personal and/or annual leave for purposes of religious observance. If annual/personal leave is unavailable, employee may request leave without pay. Leave accrual will be prorated when on leave without pay.
- h. Victim Protection: Unpaid leave may be granted to employees who are victims of stalking, sexual assault, or domestic abuse or violence to seek a restraining order, obtain medical care or counseling for the employee or the employee's children, secure or seek safe housing, or seek legal assistance and participate in legal proceedings. Seeking legal assistance includes obtaining legal counsel, filing legal documents, meetings with counsel, preparation for legal proceedings, etc. Leave to seek a restraining order still applies even if the order is not granted. Securing or seeking safe housing includes, but is not limited to, changing locks, installing alarm systems, moving into a safe house or other alternative housing. Annual leave and any applicable sick leave must be exhausted before going on leave without pay. Leave accrual will be prorated when on leave without pay.

7. **Sabbatical Leave:** Upon the recommendation of the President, sabbatical leave may be granted to faculty by the Board of Trustees. The opportunity to seek a sabbatical will arise after service of six successful, consecutive academic years to the College. Sabbatical is a privilege, rather than a right, and should be granted only when it results in adding value to the College, the students' education, and the State. The Board of Trustees will judiciously grant faculty sabbaticals that will improve excellence within the College.
- a. Allowance: Sabbatical leaves will be prioritized based upon the operational needs of the College. Generally sabbatical leave requests that represent the maximum benefit to the College will be given priority over those of less benefit to the College as determined by the President and also based upon the budgetary circumstances of the College. Sabbaticals may not be granted more frequently than once every seven years. If a prior sabbatical plan was not fulfilled, a person may not receive a subsequent sabbatical.
  - b. Requests: Sabbatical leave requests and appropriate letters of support from department chair and academic dean must be submitted for approval at the January Board of Trustees meeting preceding the academic year in which the sabbatical will begin. The sabbatical request must address the following criteria in a detailed sabbatical plan:
    - i. A complete description of the sabbatical plan activities;
    - ii. How the sabbatical activities will result in the faculty member's professional growth;
    - iii. How it will enhance the Colleges' reputation and the students' educational experience at the College;
    - iv. How it will increase the overall level of knowledge in the faculty member's area of expertise;
    - v. What goals the faculty member will achieve while on sabbatical;
    - vi. A statement from the Department Chair describing how the sabbatical plan will benefit the College and students; and
    - vii. A clear description of how the goals of the sabbatical mirror the goals of the College.
  - c. Pay and Benefits: Sabbatical leave may be granted for up to a maximum of two semesters. A leave of one semester or less will be at full pay. Leaves of more than one semester will be at half pay. A person drawing pay and benefits from the College while on sabbatical leave may not hold another paid position unless previously approved by the President. The President may adjust the sabbatical leave salaries to reflect employee compensation during the leave.
  - d. Restitution: Faculty who fail to return to the College at the end of sabbatical leave for at least one full contract year immediately following the leave, or who fail to comply with the terms of this procedure shall make restitution to the College of the salary paid to them during the leave. Restitution will not be required in the case of faculty who are approved for disability benefits, faculty who are non-renewed, reduced in force, or dismissed, or in the case of death of a faculty member while on sabbatical leave or within the first contract year after return from such leave. Faculty granted sabbatical leave must sign agreements to return to the College for a full year's employment upon completion of leave, with the provision that a failure to return obligates the employee to reimburse the College for the salary paid during the sabbatical.
  - e. Sabbatical Report: Upon completion of a sabbatical, the faculty member shall submit a final sabbatical report to the President and the Board of Trustees, including a summary of the faculty member's activities outlining the criteria set forth in the approved request to be accomplished while on sabbatical and the benefits derived by the faculty member. Final

sabbatical reports need not include specific details of the faculty member's research conducted while on sabbatical. Final sabbatical reports are open records and shall be available for inspection upon request.

8. **Family Medical Leave (FML):** Family Medical Leave (FML) is available to eligible employees in accordance with the Federal Family and Medical Leave Act of 1993 (FMLA) and any subsequent amendments thereof (ref. National Defense Authorization Act, January 2008, and related Family Military Leave). The FMLA provides eligible employees with up to 12 work weeks of unpaid job-protected leave per 12-month period. FML may be taken for a single extended leave or on an intermittent or reduced leave schedule.

The FMLA prohibits any College employee or supervisor/administrator from a) the interference, restriction, or denial of any right provided under the FMLA; and b) the discharge or discrimination against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to FMLA.

- a. Eligibility Requirements: Employees (benefited and non-benefited) of the College who meet all of the following requirements are eligible for FML:

- i. Employees are eligible if they have worked for a covered employer for at least one year in total and for 1,250 hours over the previous 12 months.
- ii. A qualifying reason for taking FML (see Definitions); and
- iii. A remaining balance of FML for the leave year during which FML is sought.

- b. Definitions:

**Child** – A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age or 18 years of age or older and incapable of self care because of a mental or physical disability.

**College** - Aims Community College, including satellite campuses and outreach locations.

**Continuing Treatment by a Health Care Provider** –

- i. Incapacity for more than 3 consecutive calendar days that also involves:
  1. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment, or;
  2. Treatment two or more times by a health care provider. The first (or only) in-person treatment visit must occur within seven days of the first day of incapacity. The second treatment visit must be directed by health care provider and occur within a 30-day period of time after first day of incapacity.
- ii. Any period of incapacity due to pregnancy.
- iii. Any period of incapacity or treatment for a chronic condition. The employee must make at least two visits in a year to the health care provider.
  - Examples include: migraines, seizures, and diabetes.
- iv. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.

- Examples: Alzheimer's, a severe stroke, or terminal stages of a disease.
- v. Any period of absence to receive multiple treatments.
- Examples: cancer (chemotherapy, radiation), severe arthritis (physical therapy), kidney disease (dialysis). FMLA leave may be taken only for treatment of substance abuse on referral by a health care provider. Absences due to substance use do not qualify for FMLA leave.

**Family Member** – Parent (does not include parent-in-law), child, or spouse of an employee.

**Health Care Provider** – A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; OR any other person determined by the Secretary of Labor to be capable of providing health care services, including: podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated to exist by x-ray) nurse practitioners, nurse-midwives, physician assistants, clinical social workers authorized to practice and performing within the scope of their practice as defined under state law; Christian Scientist practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, any health care provider recognized by the employer or the employer's group health plan benefits manager OR a health care provider listed above who practices in a country other than the United States, is authorized to practice in accordance with the law of that country and who is performing within the scope of his or her practice.

**In Loco Parentis** – Persons whose day-to-day responsibilities include caring for and financially supporting a child. A biological or legal relationship is not necessary.

**Intermittent Leave** – Leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time. Recurring absences (leave) of less than one day for ongoing treatment or leave lasting less than five days for a single qualifying illness will not be counted as FML unless requested by the employee.

**Leave Year** – For basic entitlements and military “qualifying exigencies” a period of 12 months measured backward from the date the proposed leave is to begin. To care for a covered military service member - a period of 12 months measured forward from the date the proposed leave is to begin.

**Basic Leave Entitlement:**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- i. For incapacity due to pregnancy, prenatal medical care or child birth;
- ii. To care for the employee's child after birth, or placement for adoption or foster care;
- iii. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- iv. For a serious health condition that makes the employee unable to perform the employee's job.

**Military Family Leave Entitlements:**

- i. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain

qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

- ii. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

**Reduced Leave Schedule** – A leave schedule that reduces the employee’s regularly scheduled number of working hours per work week or hours per work day.

**Serious Health Condition** – A serious health condition is 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.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

- c. Leave Charges: Employees are required to use all accrued sick, annual and personal leave in concurrence with FML. Worker’s Compensation and short-term disability may also run concurrently with FML. Holiday periods of less than one workweek are deducted from the 12-week FML entitlement. Holiday periods of one or more workweeks are not deducted from FML entitlement.

Spouses employed by the College are entitled to a combined total of 12 workweeks of family leave for the birth and care of a child, the placement of a child through adoption or foster care, and the care of a parent (but not for a parent-in-law) who has a serious health condition.

Employees requiring intermittent or partial-day leave, as documented by the employee’s health care provider, must work with their supervisor to schedule the leave so as not to unduly disrupt the workplace. In such cases, the employee may be transferred temporarily to an alternative job with equivalent pay and benefits that can accommodate recurring periods of leave.

- d. Employee Responsibility: Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer’s normal call-in procedure. Notice may be given either in person or by phone when medical emergencies are involved. Employees may lose FMLA protections if timely notification is not provided.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; 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 also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave. Employees may lose FMLA protections if timely notification is not provided.

Upon notification, Human Resources will provide employees eligible for FML with a Certification of Health Care Provider form. Employees must have the associated health care provider complete and return the completed form within 15 calendar days to Human Resources. The College may require periodic notice of employee's intent to return to work during FML. If the FML is based upon the employee's own serious health condition, medical certification of fitness to return to work may be required prior to employee's return.

Employees not returning to work after the conclusion of FML must notify their supervisor in writing prior to the expiration of the leave. Failure to notify the supervisor and failure to report shall be considered a resignation.

- e. Supervisor Responsibilities: Supervisors must inform Human Resources if an employee is absent for three or more consecutive work days or if they believe employees intermittent absence may entitle them to FML. The supervisor must re-contact Human Resources within two working days to verify the employee has obtained the necessary paperwork.
- f. Human Resources Responsibility: Human Resources must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Human Resources will provide the employee with 1) Notice of Eligibility and Rights and Responsibilities and 2) the Certification of Health Care Provider form within five business days and will notify the supervisor of the request for FML. Employees who have not discussed the FML request with their supervisor will be instructed to do so immediately. Upon confirmation from the health care provider of an FML qualifying condition, Human Resources will notify the supervisor that the employee has been placed on FML. Human Resources will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA protected, the employer must notify the employee.

Leave may be designated as FML after an employee has returned to work under the following conditions: 1) If the College does not learn the reason for an employee's absence until s/he returns to work (within two business days the leave must be retroactively designated as FML); or 2) If the College knows the reasons for the leave but is unable to confirm that it qualifies under the FMLA, Human Resources may make a preliminary FML designation and notify the employee. Upon receipt of more information, Human Resources will either withdraw or make final the designation as FML.

All FML forms and records are maintained by Human Resources. Human Resources will notify the supervisor in cases where a change in FML designation is warranted (e.g. forms

not returned, medical verification indicates non-qualifying health condition, or second or third opinion results in a change of designation).

- g. Medical Certification: Written certification from a health care provider must be supplied by the employee as soon as possible but no later than 15 calendar days following the request for FML. It is the employee's responsibility to ensure Human Resources receives a completed Medical Certification from the health care provider. Failure to provide this documentation may result in the disallowance or cancellation of FML. The College may request subsequent certifications no more frequently than every 30 calendar days.
- h. Second Opinion: The College may pay for the employee to obtain a second opinion from a health care provider chosen by the College. To resolve a conflict between the first and second opinions, a third opinion by a mutually agreed upon health care provider will be obtained. The third opinion will be paid for by the College and will be considered final.
- i. Insurance Coverage: Employee insurance coverage may be maintained while the employee is on FML whether the leave is paid or unpaid. Employees on FML are responsible for their portion of their monthly insurance premiums. An employer's obligation to maintain health benefits under FMLA stops if and when an employee informs the employer of intent not to return to work at the end of the leave period, or if the employee fails to return to work when the FMLA leave entitlement is exhausted. The employer's obligation also stops if the employee's premium payment is more than 30 days late and the employer has given the employee written notice at least 15 days in advance advising that coverage will cease if payment is not received.
- j. Leave Accrual: An employee on FML and concurrently on leave without pay will have their leave accrual prorated.
- k. Other Employment: Employee's acceptance or continuance of employment aside from the College and inconsistent with their FML will result in termination of FML and may result in discipline, up to and including separation of employment.
- l. Reinstatement: Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms; provided they return to work immediately following the conclusion of the FML. Employees are not entitled to reinstatement, if their current contracted employment ends prior to their scheduled FML return date.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

- m. Enforcement: An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

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.

#### **9. Colorado Family Care Leave (FCL):**

Contact Human Resources if you believe you are eligible for Family Care Leave in accordance with Colorado House Bill 13-122.

**FINAL APPROVAL: Dr. Marilyn Liddell**

**Aims Community College President**

**Date: July 24, 2006**

**Revised: March 9, 2009**  
**June 29, 2009**  
**August 30, 2010**  
**October 29, 2012**  
**March 11, 2014**