

PROCEDURES MEMORANDUM

TO: MCC Staff

FROM: Office of the President

SUBJECT: Leave of Absence Without Pay

DATE: November 17, 2008

PURPOSE: To establish procedures for submitting, evaluating, and processing requests for leave of absence without pay when provisions of the Family and Medical leave Act do not apply and to provide for leave of absence without pay for employees receiving Long-Term Disability (LTD) benefits under the College's LTD plan.

SCOPE: This procedure applies to all full-time and part-time regular exempt and non-exempt employees whose employment relationship is defined in Board Policies.

1. General

Leave of absence without pay, upon gaining eligibility for consideration thereof, is at the discretion of the President. It is not a matter of right. Leave of absence without pay is defined as time off with permission, but without pay. Leaves of absence without pay may be granted for the following reasons:

- A. Personal illness or injury to employee – Employees who have no available sick leave, annual leave, personal leave (if applicable), or compensatory time off may request a leave of absence without pay for the additional period of illness. (This would apply to any leave in excess of Family and Medical leave Act entitlements allowed under [Paragraph 15 of Procedures Memorandum \[PM\] VI-13.](#))
- B. Employees receiving Long-Term Disability (LTD) benefits – In accordance with the long-standing and uniform practice of the College, employees receiving LTD benefits under the College's LTD benefits plan are treated as being on leave of absence without pay for purposes of this PM, as of the first day following the date long-term disability benefits are payable.
- C. Emergency absence due to serious illness in immediate family or catastrophe involving employee's personal property – Employees who have exhausted applicable paid leave or any applicable Family and Medical leave covered under Paragraph 15 of PM VI-13 may request additional leave of absence without pay. This type of emergency absence may also be requested if provisions of Family and Medical Leave

(Paragraph 15, PM VI-13) do not apply regarding the particular family member involved (such as a parent-in-law) or to the particular catastrophe.

- D. Education – Employees may request a leave of absence without pay to attend a college, university, special workshop, or institute.
- E. Military service – Employees called into active service may be granted a leave of absence without pay consistent with existing laws and College procedures. Military Service leave may in some circumstances be "with pay." (See PM VI-13.)
- F. Personal reasons – Employees may request a leave of absence without pay for other personal reasons.

Note: In applying the provisions of leave of absence without pay, leave categories and procedures as outlined in PM VI-13, Employee Short-Term leave, may also apply and should therefore be reviewed in conjunction with applying the procedures herein.

With the exception of military leave and employees receiving Long Term Disability (LTD) Benefits and employee entitlements to Family and Medical Leave under PM VI-13, the following will normally be required as conditions precedent to consideration of requests for leave of absence without pay:

- A. A minimum of one (1) year of continuous prior employment with the College for leaves of more than 30 work days.
- B. A satisfactory work performance and attendance record at the College.
- C. The availability of temporary employee(s) to "cover" the proposed period of absence, and the effect of leave on the level of service delivered by or to the College.

With the exception of military leaves and certain Family and Medical Leaves (see PM VI-13), all accumulated annual leave as well as compensatory time and sick leave when applicable must be used by the employee prior to beginning a leave of absence without pay.

2. Procedures for Implementation

- A. Requests – The employee shall make the request for a leave of absence without pay to his or her immediate supervisor. Supervisors reporting directly to a Dean, a Vice President or the Executive Vice President may approve leaves without pay for periods of five work days or less. The Executive Vice President or Vice President may approve leaves without pay for periods of 30 work days or less. All leaves without pay of more than 30 work days must be approved by the President.

Requests for leave of absence without pay must be made on the appropriate College leave form with additional details and support attached.

- B. Duration – The maximum length of a leave of absence without pay is normally 12 calendar months. An employee may request cancellation of an approved leave of absence without pay at any time, but official cancellation shall be at the discretion of the College.
- C. Effect on employment date – Employees on leaves of absence without pay for periods of more than three calendar months shall have their length of service reduced by the length of their leave of absence without pay in excess of three calendar months and will have service date adjustments to accurately reflect total years worked. Accumulated time towards promotion in level, when applicable, shall also be reduced commensurately.
- D. Special conditions – The College reserves the right to establish special conditions applicable to granting a leave of absence without pay. For example, the need of the employee for a relatively lengthy leave and the College's anticipated inability to "cover" for the employee during the leave by use of temporary substitute(s) may cause the College to approve a leave without assurance of reinstatement upon expiration of the leave and with merely preferred right of recall to the employee's position when it becomes vacant, or to a reasonably comparable vacant position. Special conditions may be established at the time the leave is granted, and may also be established or modified during the leave on five (5) days written notice to the employee, as deemed necessary by the College.
- E. Effect on employee benefits when leave begins – The continuation of employee benefits is subject to the provisions of the insurance contracts and employee benefit plans in effect at the time the leave is granted. Those provisions are subject to change. Details may be obtained from the Human Resources office prior to requesting leave of absence without pay.

During a leave of absence without pay of 30 calendar days or less, the College will allow the employee to retain health (or cash-in-lieu of/CILO), dental, life, and both supplemental and/or dependent life insurance coverages. College contribution amounts and employee contribution amounts will not be affected for up to the 30 calendar day period, that is, contributions will remain the same as for employees on paid status. However, if a payday occurs during the unpaid leave, and if the amount of the paycheck is insufficient to deduct the employee's portion of the premiums, it is the employee's responsibility to prepay the premiums, i.e., health and dental, dependent and/or supplemental life.

The College will continue to pay the College's portion of the employee's coverage (and dependents' coverage, when applicable) with the current carrier, while an employee is on paid sick leave. Once all accrued sick leave is used, and the leave is without pay of more than 30 calendar days, health and dental insurance may be continued under the provisions of COBRA.

For example, an employee may accrue and have unused 110 days of sick leave. For an absence due to a condition certified by a health care provider, the employee would

use all unused and accrued sick leave before the leave is without pay and before long-term disability benefits become payable. In the case of the employee with 110 days of accrued and unused sick leave, the employee would have over five (5) months of paid sick leave, during which time the College would pay any portion of the premium normally paid by the College for active employees of the same classification as the eligible employee in question under any group health plan maintained by the College. After more than 30 days without pay has elapsed, health and dental may be continued by the employee under the provisions of COBRA, as stated below.

During a leave of absence without pay of more than 30 calendar days, employee benefits are affected as follows:

- 1) Health and Dental Insurance – The employee’s coverage (and dependents’ coverage, when applicable) with current carrier may be continued, with the employee paying the total cost thereof (both the employee’s share and the normal college contribution) and the applicable administration charge, as provided under provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985. Details are available from the Human Resources office.

NOTE: If the employee does not prepay the cost of health and dental insurance, and if the employee would as a result lose coverage, the employee and qualified beneficiaries shall be sent notices informing them of his/her/their rights to elect continuation coverage under (COBRA).

- 2) Life Insurance – The employee’s coverage (and dependents’ coverage, when applicable) terminates the last day of active work prior to the leave; however, a 31-day grace period applies for a death benefit. If a waiver of premium for total disability for the employee’s coverage has been approved by the group life insurance carrier, only the employee’s coverage will continue based on the provisions of the group life insurance policy in effect at the time.
- 3) Long-Term Disability – The employee’s coverage terminates on the last day of active work prior to the leave. This provision does not apply to employees receiving LTD benefits.)
- 4) Sick leave and/or Annual Leave – Sick leave and annual leave will accumulate on a pro-rated basis as determined by the number of paid work hours, if any, during the calendar months in which the leave begins and ends. No sick leave or annual leave will accrue during the period of any leave of absence without pay.
- 5) Other Benefits – Other benefits cease during the leave, except as otherwise expressly provided herein. Regarding employees receiving LTD benefits, all other benefits cease during the leave except as otherwise expressly provided herein or in the College’s long-term disability insurance plan.

- F. Certification of personal illness or injury – Employees who request a leave of absence without pay for personal illness or injury shall be required to provide the College with

a certification from an attending physician certifying the nature of the illness or injury and the necessity for absence from work. At the conclusion of a leave of absence without pay, a physician's certification shall be provided as to the employee's ability to perform the essential functions of his/her position. The College may require examination by a physician designated by the College, when deemed necessary, to determine whether the employee is still able to perform the essential functions of his/her position, or to permit reasonable accommodation of the employee's condition.

- G. Failure to return to work as scheduled – Unless an extension of a previously approved leave of absence without pay has been approved in advance in writing by the College, an employee who does not return within three work days after the approved leave period has elapsed is subject to immediate termination by the College, without notice.
- H. Exceptions – In unusual situations or extraordinary circumstances, exceptions to the above procedures may be given consideration. Such situations or circumstances may be reviewed by the Executive Vice President or the Vice President and forwarded with recommendations to the College President for final determination.

Adopted 2/20/92; Revised: 9/29/93, 11/30/01, 11/16/04, 11/17/08