

10.06 Unpaid Leaves and Time Off

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Policy / Purpose:

It is the policy of Wallace Community College – Selma (WCCS) to follow the Alabama Community College System (ACCS) policies related to paid leaves and time off. Refer to ACCS [Board Policy 611.01](#) and [Chancellor's Procedures 611.01](#).

Scope:

Eligibility in this policy varies based upon employment status.

Family and Medical Leave Act (FMLA): To be eligible for FMLA benefits, an employee must have been employed by the institution for a total of 12 months from the date on which any FMLA leave is to begin **and** must have worked at least 1,250 hours over the previous 12-month period. These guidelines generally do not cover temporary employees. However, if a temporary employee is extended beyond one (1) year, the employee would be covered if the employee had worked at least 1,250 hours during the previous 12-month period.

Victims' Economic Security and Safety Act (VESSA): The WCCS VESSA policy applies to all full-time and part-time employees.

Definitions:

Serious Health Condition: A serious health condition may include any combination of the following:

- Any period of incapacity or treatment connected with inpatient care (i.e., overnight stay) in a hospital, hospice or residential medical care facility; or
- A period of incapacity requiring an absence of more than three (3) calendar days that also involves continuing treatment by or under the supervision of a health care provider; or
- Any period of incapacity due to chronic serious health condition; or
- Any period of incapacity due to pregnancy, or for prenatal care; or
- Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (the employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider); or
- Any period of absence to multiple treatments (including recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or
- For a condition that would likely result in a period of incapacity or more than three (3) consecutive calendar days in the absences of medical intervention or treatment (such as cancer, severe arthritis, kidney disease, etc.).

Immediate Family Member: An immediate family member is one of the following:

- "Spouse" means a husband or wife as defined or recognized under the laws of the State in which the employee resides (including common law marriage, and same sex marriage, where recognized).

- “Child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing *in loco parentis* (“in place of a parent”) who is either under 18 or age 18 or older and incapable of self-care due to mental or physical disability.
- “Parent” means a biological parent or individual who stands or stood *in loco parentis* (“in place of a parent”) to the employee when the employee was a “child” (as defined above) but excludes parents in law.

Covered Servicemember: A current member of the Armed Forces, including a member of the National Guard or Reserves, including those on a temporary disability retired list. A “covered servicemember” also includes a veteran of the Armed Forces (including a member of the National Guard or Reserves) receiving treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty, if the injury or illness was within five (5) years of the date of treatment, recuperation, or therapy.

Military Family Member: An eligible employee’s spouse, son, daughter, or parent who:

- Is on active duty or has been called to active-duty status in the National Guard or Reserves in support of contingency operations; or
- Is retired from the Regular Armed Forces or Reserves and has been called to active duty; or
- Is on active duty in the Regular Armed Forces and has been deployed to a foreign country.

An employee whose family member is on active duty as a member of the Regular Armed Forces or is called to active-duty status in support of a contingency operation as a member of the Regular Armed Forces and who has not been deployed to a foreign country is NOT eligible to take leave because of a qualifying exigency.

Military Next of Kin: A covered servicemember is the nearest blood relative, other than the covered servicemember’s spouse, parent, son, or daughter.

Qualifying exigencies: Events arising out of a qualifying military family member’s call to active duty that include attending military events (e.g. official ceremonies or programs, or family support/assistance programs or informational briefings); arranging for alternative childcare or addressing school-related issues; addressing certain financial and legal arrangements; attending certain counseling sessions; assisting a military member who is on short-term, temporary rest or recuperation leave during period of deployment; and attending post-deployment reintegration briefings. Qualifying leave under this provision may also include addressing other events which arise out of the covered military member’s active duty or call to active-duty status provide that WCCS and employee agree that such leave will qualify as an exigency and agree to both the timing and duration of such leave.

Military Triggering Event: The covered servicemember’s injury or illness which arose in the line of duty while on active duty in the Armed Forces provided that such injury or illness renders the covered servicemember medically unfit to perform duties of a member’s office, grade, rank, or rating.

Details:

1. **Accrual of Paid Time Off During Unpaid Leaves:** Paid time off does not accrue during unpaid leaves.

2. **Family and Medical Leave Act (FMLA) Leave:** The Family and Medical Leave Act (FMLA) was passed by Congress to balance demands of the work place with needs of families, promote stability and economic security of families, and promote national interests in preserving family integrity; minimize the potential for employment discrimination on the basis of gender by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons; and promote the goal of equal opportunity for women and men.

The Board of Trustees and the institutions under its direction and control will comply with the requirements of the FMLA. Those institutions will administer the FMLA in conformance with regulations and guidelines promulgated by the Chancellor.

- a. **Eligibility:** FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. Designation of leave as FMLA leave must be made “up-front” whenever possible.
- b. **Leave:** Under the FMLA, eligible employees may take up to 12 weeks of unpaid, job-protected leave in the designated 12-month period for the following reasons:
- For a serious health condition that makes the employee unable to perform the essential functions of the job;
 - To care for the employee’s spouse, son, daughter, or parent, who has a serious health condition
 - For incapacity due to pregnancy, prenatal medical care, or childbirth;
 - For leave after birth of a child, or the placement with the employee of a child for adoption or foster care. (Note: leave to care for a newborn child or for a newly placed child must conclude within twelve (12) months after the birth or placement)
 - Any “qualifying exigency” arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- c. **Length of Non-Military FMLA Leaves:** With the exception of military caregiver leave, leave under the Family and Medical Leave Act (FMLA) may not exceed twelve (12) weeks in a twelve (12) month period. The twelve (12) month period follows the college’s benefit year (begins on September 1 and ends the following August 31).

When both the employee and the employee’s spouse are eligible for Family Medical Leave and both work for WCCS, the maximum combined leave for the birth of a child, bonding, adoption, foster care placement, or to care for the employee’s parent (where both employees have the same “parent” as that term is defined by the FMLA) with a serious health condition is twelve (12) weeks.

During the leave, the employee may be required to provide appropriate certification and periodic reports on the status and intent to return to work. Failure to provide the required information may affect the employee’s leave and/or employment status. An employee on an approved Family Medical Leave will not be subject to disciplinary action according to unapproved absence policies.

- d. **Benefits and Protections:** While on Family Medical Leave certain benefits accrue based upon WCCS’s policies. If benefits change during a leave, the employee will be notified of the change and will be affected as if the employee were working.

Upon return from FMLA leave, an employee is entitled to be restored to the same job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

If pay continues, employees will have their monthly premiums deducted as usual. If pay is exhausted, the employee will be billed for their monthly insurance premium(s). The employer portion of health insurance will be paid up to three months. If an employee has exhausted all paid leave, then the Payroll Office will review (on a case-by-case basis) how to manage the payment of premiums for benefit coverage.

- e. **Pay During FMLA:** Accrued sick leave must be exhausted before the employee is entitled to unpaid FMLA leave. Any sick leave accrued and used by an employee which would qualify for FMLA leave will count towards the twelve (12) weeks of unpaid FMLA leave available to the employee. In order to use paid leave, employees must comply with normal paid leave policies.
- f. **Intermittent FMLA:** An employee does not need to use their FMLA leave continuously. Leave may be taken intermittently or on a reduced leave schedule when medically necessary and authorized by the certifying physician. Employees are required to make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies (see Military Family Leave Entitlements) may also be taken on an intermittent basis.

The employee may also be transferred to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced workweek leave schedule than does the employee's regular position.

- g. **Military Family Leave Entitlements:** Eligible employees with a spouse, son, daughter, parent, or next of kin who is a covered servicemember with a military triggering event may use up to twenty-six (26) workweeks of leave during a single twelve (12) month period to care for the ill or injured servicemember. Leave to care for ill or injured servicemembers, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) weeks in a single twelve (12) month period.
- h. **Returning to Work / Fitness for Duty:** Employees will be reinstated to the same job or an equivalent position upon completion of FMLA leave, except where denial of restoration is permitted by the FMLA. If an employee has exhausted all available leave and is still unable to return to work, the employee will no longer have any job restoration rights under FMLA. However, the Human Resources Office will review each case to determine whether the employee may be eligible for rights and protections under other laws or College policies.

When leave is taken for the employee's own serious health condition, they are expected to return to work when released by a licensed health care provider. The employee is required to provide a fitness-for-duty certification before returning to work. The fitness-for-duty certification must be signed by a health care provider and should contain any work restrictions imposed by the medical provider. In some cases, it may

be necessary for an employee to be evaluated by the College medical provider prior to the employee returning to work, at the College's expense.

i. **Additional Information:**

- 1) If an employee suffers an on-the-job injury, and they are eligible, any absences due to the injury may qualify for FMLA leave. FMLA will run concurrently with any time off for an on-the-job injury.
 - 2) Separation of employment may occur if the employee fails to return from leave at the time agreed upon (barring circumstances, which required an extension of available leave) or if they are found to have taken leave on a fraudulent basis.
 - 3) If an employee's performance appraisal date occurs during the leave period, a performance evaluation will be conducted upon return. Full-time regularly scheduled employees will continue accruing annual leave during FMLA leave, and it must be used while the employee is out on leave consistently with college policy.
 - 4) Employees are prohibited from accepting or continuing employment elsewhere, including self-employment, or from working elsewhere while on FMLA.
3. **Maternity Leave:** A full-time employee and Salary Schedule H employees will be granted up to a maximum six (6) consecutive calendar months of maternity leave without pay for birth or adoption of a child. All accrued leave including compensatory leave unless in FMLA status must be exhausted before an employee is entitled to request unpaid maternity leave.
- a. **Use of Maternity Leave:** Each full-time employee and Salary Schedule H employees are entitled to a maximum of six (6) months of maternity leave without pay for the birth or adoption of a child. In addition, or as an alternative, an employee may use accrued sick leave. Accumulation of sick leave will continue while employee is on paid sick leave. Accumulation of sick leave will not continue while employee is on unpaid maternity leave. An employee taking leave to stay at home after placement of an adopted child or foster child is not eligible for paid sick leave; however, all provisions of the Family and Medical Leave Act will be followed as they relate to leave occurrences for individuals meeting the eligibility requirements. Time spent on unpaid maternity leave should not be counted in computing the amount of time worked during a given academic year. The maximum designation is intended to apply exclusively to unpaid maternity leave. Therefore, any paid leave taken by an employee for maternity purposes will not reduce the maximum amount of one year of unpaid maternity leave which the employee may also take.
4. **Personal Leave (Unpaid):** The Chancellor may grant up to six (6) months of personal leave without pay to a full-time or Salary Schedule H employees on the written request of the President to the Chancellor based on special circumstances. Such request will state that the leave without pay will not hamper the normal routine operation of the institution. The tenure status of persons on personal leave without pay will not be affected.
5. **Victims' Economic Security and Safety Act (VESSA) Leave:** The Victims' Economic Security and Safety Act (VESSA) allows eligible employees unpaid leave to address domestic or sexual violence by seeking medical attention or counseling for injuries or

psychological trauma, to obtain victim services, to relocate, to seek legal assistance, or to participate in a related court proceeding. Under VESSA, the eligible employee who is a victim of domestic or sexual violence or who seeks to address this type of victimization will not be discharged or otherwise discriminated against.

Leave taken under this policy does not create a right for unpaid leave that exceeds the time allowed under, or in addition to the leave permitted by, the Family and Medical Leave Act (FMLA).

- a. **Use of VESSA Leave:** An eligible employee who is a victim of domestic or sexual violence or has a family or household member who is a victim of domestic or sexual violence, may take up to a total of 12 workweeks of unpaid leave from work during any 12-month period to address the domestic or sexual violence.
- b. **Intermittent VESSA Leave:** Employees may also have the opportunity to take intermittent leave or work a reduced schedule.
- c. **Pay and Benefits on VESSA Leave:** Employees may elect to substitute available paid leave for an equivalent period of unpaid leave. During the leave, the employee's group health plan benefits will continue.
- d. **Periodic Reporting:** Employees on leave are expected to report periodically to the manager/supervisor on the status and their intention to return to work.
- e. **Confidentiality:** A request for leave under this policy will be kept confidential to the extent possible (i.e., limited to those with a need to know). Employees who share confidential information with their coworkers should not expect confidentiality.

Procedure(s):

FMLA Leave Request Procedures

(not related to The Support for Injured Service Members Act of 2007)

1. Employee reviews Unpaid Leaves and Time Off Policy (FMLA section) and ACCS [Board Policy 611.01](#) and [Chancellor's Procedures 611.01](#).
2. Eligible employee requests FMLA leave by completing the Leave of Absence Request Form and returning it to the Human Resources Office at least thirty (30) business days prior to the anticipated leave date. In cases of emergency, contact the appropriate supervisor as soon as possible. All current call-in procedures must be followed. If the circumstances change such that the amount of leave needed changes, the employee must provide notice of the change to the supervisor within two (2) business days.
3. Upon notification or knowledge of an FMLA leave, the Human Resources Office provides the employee with the following:
 - Notice of Eligibility and Rights & Responsibilities Form, and
 - Certification of Health Care Provider for Employee's Serious Health Condition Form (if applicable) and a copy of the employee's job description (if applicable), or Certification of Health Care Provider for Family Member's Serious Health Condition (if applicable).

4. The Certification of Health Care Provider for Employee's Serious Health Condition Form or Certification of Health Care Provider for Family Member's Serious Health Condition Form must be completed by a physician and returned to the Human Resources Office within 15 calendar days. If the certification is not returned in 15 calendar days, the leave may be denied.

An employee's failure to submit the required FMLA forms (including, but not limited to, the certification forms) may result in delay and/or denial of FMLA leave rights. Additionally, an employee's failure to cooperate with WCCS in the submission of requested information may result in denial of benefits for which the employee may otherwise be eligible.

If the College has reason to doubt the employee's initial certification in support of a leave due to a serious health condition, WCCS may (a) contact the employee's healthcare provider in an effort to clarify or authenticate the initial certification to the extent allowed by applicable law; and/or (b) require the employee to obtain a second opinion by an independent provider designated by WCCS, at the College's expense. If the initial and second certification differ, a third and final, binding certification may be sought, at the College's expense.

5. Upon review of all documentation, the Human Resources Office provides the employee with a Designation Notice and informs the appropriate supervisor of status of the FMLA request within five (5) business days.
6. The Human Resources Office monitors the leave and provides necessary information to the employee's supervisor.
7. The employee may be required to provide periodic recertification supporting the need for leave and may be required to report periodically on the leave status and intent to return to work.
8. The employee is responsible for following absence procedures related to the submission of time off.
9. In the case of intermittent leave, employee is responsible to coordinate leave with the employee's supervisor and the Human Resources Office to avoid interrupting the department's operations or student's academic environment, including the reporting of intermittent leave to the supervisor and the Human Resources Office.

NOTES:

1. *The College reserves the right to place an employee on FMLA, if they meets the requirements of eligibility for FMLA.*
2. *FMLA runs concurrently with paid time off (such as sick and annual leave), meaning, paid time off is taken at the same time as FMLA. In addition, all paid time off must be exhausted prior to FMLA becoming unpaid leave.*

FMLA Leave Request Procedures

For 1) a covered family member's active duty or call to active duty in the Armed Forces or 2) to care for an injured or ill service member

1. Employee reviews section Unpaid Leaves and Time Off Policy (FMLA section) and ACCS [Board Policy 611.01](#) and [Chancellor's Procedures 611.01](#).
2. Eligible employee requests FMLA leave by completing the Leave of Absence Request Form and returning it to Human Resources at least thirty (30) business days prior to the anticipated leave date. In cases of emergency, contact the appropriate supervisor as soon as possible. All current call-in procedures must be followed.

NOTE: If the circumstances change such that the amount of leave needed changes, the employee must provide notice of the change to the supervisor within two business days.

3. Employees requesting this type of FMLA leave must provide notice with an explanation of the reason(s) for the needed leave to Human Resources.
4. Leave may commence as soon as the individual receives the active-duty orders or other documentation issued by the military.
5. If the leave is foreseeable, the employee must provide a written request for leave and reasons(s) to Human Resources.
6. The College will provide individual notice of rights and obligations to each employee requesting leave as soon as practicable.

VESSA Leave Request Procedures

1. Employee reviews section Unpaid Leaves and Time Off Policy (VESSA section) and ACCS [Board Policy 611.01](#) and [Chancellor's Procedures 611.01](#).
2. Employees must provide their supervisor with at least 48 hours' advance notice of the intention to take the leave, unless providing such notice is not practicable. Supervisors may require that the employee provide certification of such services.
3. Employees must complete a Leave of Absence Request Form, include the specified period of leave, and include supporting documentation (e.g., restraining order, court order, police report, etc.), if such documentation is available. In emergency situations, documentation may be provided at a later date.

NOTE: WCCS reserves the right to restrict leave or the duration of leave if the absence would be detrimental to the College or department.

All Other Unpaid Leaves Request Procedures

1. Employee reviews section Unpaid Leaves and Time Off Policy and ACCS [Board Policy 611.01](#) and [Chancellor's Procedures 611.01](#).

2. Eligible employee requests leave by completing the Leave of Absence Request Form and returning it to Human Resources at least thirty (30) business days prior to the anticipated leave date. In case of emergency, contact the appropriate supervisor as soon as possible. All current call-in procedures must be followed.

Returning to Work for All Leaves of Absence Procedures

1. The employee is required to contact the Human Resources Office prior to their return to work. If the leave is for the employee's own serious health condition and is used on other than an intermittent basis, the employee will be required to provide the Human Resources Office with a certification from their health care provider stating that they are able to resume working.
2. Depending on the medical condition and how it relates to the ability to perform the essential functions of the position, employee may be required to complete a return-to-work physical at the College's selected provider at the College's expense.

Additional Provisions / Information:

There are no Additional Provisions / Information applicable to this policy.