SUMMARY:

This document sets forth Coastal Carolina University’s Family and Medical Leave Policy for all employees, pursuant to the Family and Medical Leave Act (FMLA) of 1993, including military family leave entitlements enacted under the National Defense Authorization Act for Fiscal Year 2008 and 2010 and regulations of the United States Department of Labor.

POLICY:

I. DEFINITIONS

A. Spouse - a husband or wife as defined or recognized under state law for purposes of marriage, including a common law marriage.

B. Parent - a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. This term does not include parents-in-law.

C. Son or Daughter - a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of mental or physical disability.

D. Serious Health Condition - an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or residential medical care facility;

2. Any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days, that involves continuing treatment by (or under the supervision of) a health provider; or
3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days or for prenatal care.

E. Health Care Provider - any doctor of medicine or osteopathy, podiatrist, optometrist, and nurse practitioner or nurse midwife performing within the scope of their practice. Christian Science practitioners and chiropractors are health care providers to the extent defined under regulations issued by the U.S. Department of Labor.

F. Definitions Related to Covered Service Members

1. Covered Service Member - 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 for which he/she is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list if such injury renders the service member medically unfit to perform his or her duties.

2. Next of Kin - the nearest blood relative of the service member, other than the service member’s spouse, parent, son, or daughter.

II. FMLA ELIGIBILITY

FMLA leave will be granted to any University employee who has worked for the State of South Carolina at least twelve (12) months, and who has worked at least 1250 hours (defined as FLSA compensable hours of work) during the twelve (12) month period prior to the request for FMLA leave including "on-call" hours, and is employed at a work site where fifty (50) or more employees are employed by the University within seventy-five (75) miles of that work site. The required total of twelve (12) months of employment need not be consecutive. The University can go back seven (7) years prior to the date of the need for leave to determine if the employee worked a total of twelve (12) months with The South Carolina State government. The University has the ability to go beyond seven (7) years if an employee left South Carolina State employment due to National Guard or Reserve Military obligations or a written agreement reflecting an employer's intention to rehire after a break.

A. In order to determine if exempt employees meet the 1250 hours of service, work records may be kept. Otherwise, exempt employees are presumed to have met the 1250 hours of service.

B. South Carolina State government is considered a single employer for the purpose of determining FMLA leave.

C. Military Family Leave Entitlement:
1. Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation, may use their twelve (12) week entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings.

2. Twenty-six (26) Week Leave Entitlement – An eligible employee who is the spouse, child, parent, or next of kin of a covered service member may take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve month (12) month period.

3. Veterans’ twenty-six (26) Week Leave Entitlement – An eligible employee who is the spouse, child, parent, or next of kin of a veteran may take up to twenty-six (26) weeks of leave to care for a veteran for up to five (5) years after the service member leaves military service during a single twelve (12) month period.

III. FMLA PROCEDURES

A. Requesting FMLA

1. An employee requesting FMLA leave should contact the Office of Human Resources and Equal Opportunity (HREO) to request a Certification of Health Care Provider document.

2. If the need for FMLA leave is foreseeable, the employee should provide thirty (30) days notice.

3. If the need for FMLA leave is not foreseeable, such notice must be given as soon as practicable.

4. If the employee fails to report to work when FMLA leave has been denied, the time taken may be treated as unauthorized leave.

B. Spouses Employed by the University and Other South Carolina State Agencies

1. When an employee’s spouse is employed by Coastal Carolina University or another South Carolina State Agency, the aggregate number of work weeks for FMLA leave to which both may be entitled is limited to twelve (12) weeks during the calendar year for the birth or adoption of a child or the foster care placement of a child.

2. For military caregiver leave, the employee and the employee’s spouse may be limited to a combined total of twenty-six (26) weeks of leave in a single calendar year.
C. Use of FMLA Leave

An eligible employee will be granted up to a total of twelve (12) weeks of FMLA leave in each calendar year, for any of the following reasons:

1. The birth and care of a newborn child of the employee;
2. The placement of a son or daughter for adoption or foster care with the employee;
3. To care for the employee's spouse, son, daughter or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of his/her job; or
5. For qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or Reserves in support of a contingency operation. Qualifying exigencies can include:
   a. short notice deployment;
   b. military events and related activities;
   c. childcare and school activities;
   d. financial and legal arrangements;
   e. counseling;
   f. rest and recuperation;
   g. post-deployment activities; and
   h. additional activities not encompassed in other categories but agreed by the agency and the employee.

Note: Eligibility for reasons one (1) and two (2) expire twelve (12) months after the date of the birth or placement.

D. Certification

1. If the FMLA leave is for the birth of a child or the serious health condition of the employee, a Certification of Health Care Provider form must be completed by the attending physician and submitted to HREO. To certify an eligible dependent’s serious health condition, the employee must submit a Certification of Health Care Provider for Family Member’s Serious Health Condition. The appropriate form must include:
a. The date on which the serious health condition commenced;

b. The probable duration of the employee’s condition or an estimate of the amount of time the employee will be needed to care for a family member; and

c. Sufficient medical facts within the knowledge of the health care provider that would entitle the employee to take FMLA leave.

2. If the FMLA leave is for the adoption or foster care placement of a child, a copy of the adoption papers or letter from the attorney or agency handling the adoption or foster care placement must be submitted.

3. If the FMLA leave is for Military Family Leave, a copy of the applicable Military Orders, DD214 for Veterans or other acceptable documentation must be submitted.

NOTE: Since FMLA is based on the calendar year, if the medical condition persists from one calendar year to the next, a new FMLA document for the next calendar year will be required.

E. Second Opinions

The University reserves the right to request that the employee obtain a second opinion from an independent health care provider.

F. Scheduling FMLA Leave

If the FMLA leave is for the planned medical treatment of the employee or a family member or requires intermittent or reduced-schedule leave, the employee should make every reasonable effort to schedule treatment so as not to unduly disrupt the employer’s daily operation.

G. Charging FMLA Leave

It is the University’s responsibility to declare leave as FMLA leave based on information provided by the employee.

1. When the University designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave retroactively after the employee has returned to work.

2. An eligible employee's FMLA leave allowance will be charged for the actual time (or at a minimum of quarter hour increments) an employee must be away from the job.
3. Any leave taken that qualifies as FMLA leave should be declared as such by the University. The FMLA leave should run concurrently with other leave taken and the leave should be charged against both leave categories' allowances.

4. Any paid leave time taken will count toward the twelve (12) weeks of FMLA leave. The FMLA policy does not allow paid leave to be taken in excess of the limits provided in other applicable leave policies, including but not limited to the Sick Leave policy, 1239, Annual Leave policy, 1238 or leave representations in the University Faculty manuals.

5. If an employee must take FMLA on an intermittent basis for a medical condition, it is the responsibility of the employee to notify HREO if a specific absence should not be counted against the FMLA entitlement. For example, if an employee is out sick for a condition unrelated to the condition covered by the FMLA, such as having the flu, the employee must notify HREO not to count the absence toward the FMLA entitlement. If such notification is not given, all sick leave reported will be designated as FMLA.

6. If a holiday is observed within the week taken as FMLA, the entire week is counted against an employee’s FMLA leave entitlement. However, if the employee is using FMLA leave in increments of less than a full workweek, the holidays will not count against the employee’s FMLA leave entitlement.

H. Use of Paid and Unpaid Leave

Generally FMLA leave is unpaid; however,

1. Eligible employees will be required to substitute their accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage, or
2. An eligible employee may elect to substitute accrued annual leave for unpaid FMLA leave.

I. FMLA Leave Record

A leave record will be maintained by the University for each employee covered under the provisions of the FMLA. Such records will:

1. Reflect the maximum FMLA leave allowance (twelve [12] weeks in a calendar year) and charges in terms of hours;
2. Indicate the number of FMLA leave hours used in the current calendar year;
3. Indicate the number of hours in the employee's official workweek;
4. Include any other information the University may require; and
5. Be subject to audit.

J. Benefits during FMLA Leave

1. During any period of FMLA leave the University will maintain the employee’s coverage for health insurance, provided the employee continues to pay the health insurance premiums that normally would be deducted from the employee’s paycheck.

2. If the employee fails to make the required health insurance premium payments within thirty (30) days of the date the payments are due, health insurance coverage will be discontinued.

3. All payments must be made to the Payroll Office in accordance with the terms and conditions stated above.

4. If an employee elects not to continue health insurance during a period of FMLA leave, the coverage may be reinstated within thirty-one (31) days upon return from leave. The reinstated coverage will not be subject to exclusion because of a pre-existing condition unless the exclusion applied when the employee began FMLA leave.

5. If an employee notifies the University that he/she will not be returning from a period of FMLA leave, the University may terminate the employee’s health insurance. In this case, the employee will be entitled to continuation of health insurance benefits only in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA) and the provisions of the health insurance plan.

K. Responsibility of Administration

1. HREO is responsible for FMLA leave approval, computation, leave adjustment, and leave policy interpretation. All provisions of this policy will be interpreted to be consistent with the Family and Medical Leave Act of 1993, including military family leave entitlements enacted under the National Defense Authorization Act for Fiscal Year 2008 and 2010.

2. FMLA leave policies and procedures will be applied in an equitable manner to all eligible employees. In instances of suspected FMLA leave abuse or violation of policy, department heads or authorized supervisors may take disciplinary action in accordance with University policy and in consultation with HREO.

3. Additional covered employees may not be hired to replace employees on FMLA leave. Temporary employees may be hired for limited periods of time to provide coverage during the absence of covered employees on FMLA leave upon approval of the Executive Vice President.
L. Reinstatement from FMLA Leave

Upon return from FMLA leave, an employee is entitled to return to the same position the employee held when the FMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. That position must involve the same or substantially similar duties and responsibilities, which must entail equivalent skill, effort, responsibility, and authority.

M. Transfer of FMLA Leave

For eligible employees who transfer from one South Carolina State Agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.