

Leaves of Absence  
Prepared by the Office of Human Resources  
**7/06 -LG**

*[Note for all employees: This document is intended to summarize and clarify the current leave of absence policies and practices at Simmons College. The HR Office recognizes that the current policies and practices are not always clear, nor are they presented in one complete document or Handbook. This document is designed to resolve these issues by clarifying – not substantially changing – current policy and practice. Please note that the leave of absence policy will be revised and updated in the near future as part of the project involving revisions to the current Employee Handbook.]*

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At Simmons, regular attendance is an essential function of all jobs. Exactly what constitutes “regular attendance” depends, of course, on the specific job to be performed and the expectations of your manager. We recognize, however, that there are times when employees need a leave of absence (“LOA”) from work in addition to vacation time and holidays.

We support the reasonable use of LOA’s so that you can more effectively balance the demands of work, family, civic and personal life. We also support faculty sabbaticals where they aid in the revitalization and intellectual growth of faculty members and where they promote his/her academic contributions to the College and to his/her profession. Below are descriptions of the various LOA’s available to Simmons employees - some of these leaves may run concurrently.

### ***SICK LEAVE***

All full-time and part-time staff employees<sup>1</sup> are eligible for paid sick leave. On July 1 of each year, regular full-time employees receive a bank of 12 sick days per year; full-time 10-month employees receive 10 days; full-time 9-month employees receive 9 days. Regular part-time employees who work at least 1,000 hours per year receive a pro-rated number of sick days.

New employees receive a pro-rated number of sick days. The number of days depends on their date of hire.

Full-time staff may use up to 5 of their annual sick days for the following purposes:

- to care for an immediate family member who is ill. Your immediate family member is defined as your father, mother, sister, brother, spouse, spouse equivalent, son, daughter, grandparents, grandchild, and in-law; or

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<sup>1</sup> Temporary employees are not eligible for sick leave or other LOA benefits. Faculty do not get a pre-determined number of paid sick days.

- to care for your newborn child when you have not given birth (for example, fathers). You must use your sick days within 3 months following the child's birth; or
- to care for your child following his/her placement for adoption or foster care. You must use your sick days within 3 months following the placement.

Full-time 9- and 10-month employees may use up to 4 days for such purposes; part-time employees may use up to 3.

When you have exhausted your sick leave, you do not get paid unless you qualify for short-term disability ("STD"). The STD policy is covered in the next few pages. Staff cannot carry over sick days from one fiscal year into the next. When you leave the College, you do not receive pay for unused sick days.

If you exceed the number of paid days allocated to you, additional sick time may be unpaid and/or you may be subject to discipline. If you miss 5 consecutive days of work, you may be asked to provide a statement from your doctor explaining the nature and expected duration of your illness or disability.

### ***FAMILY AND MEDICAL LEAVE***

Family and Medical leave ("FML") is job-protected, unpaid leave. In accordance with the Federal Family and Medical Leave Act, FML is available to you for the following reasons:

- (a) for the care of your child following his/her birth or placement for adoption or foster care. Your FML must conclude within 12 months after the child's birth or placement; or
- (b) for a serious health condition<sup>2</sup> that makes you unable to perform your job; or
- (c) for the care of your spouse, spouse equivalent, dependent child, step-child, or parent who has a serious health condition. "Parent" does not include a mother- or father-in-law.

Pregnancy, complications from pregnancy, and delivery are considered serious health conditions for which FML is available.

If you are on an approved FML, your manager may not require that you perform any work during the FML. If your FML is due to your own serious health condition, you should not work without having your health care provider give advance written approval to the HR office.

With the exception of intermittent leave (see below), FML is not available for reasons other than those stated above.

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<sup>2</sup> A definition of "serious health condition" is attached to this policy.

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### ***Eligible Employees***

You are eligible for FML if you meet both requirements below:

- You have worked for the College for at least 12 months (you may use accrued, unused vacation time to bridge a gap between the time you need FML and your one-year anniversary); **and**
- You have worked at least 1,250 hours over the 12 months immediately prior to your taking FML.<sup>3</sup>

If you are not eligible for FML, you may be eligible for a leave under state law, or you may be eligible for a leave as a reasonable accommodation for a disability. Under Massachusetts law, if you have worked at the College for at least 3 months, and if you are a regular, full-time female employee, you are entitled to take an unpaid 8-week leave of absence for the birth or adoption of a child.

### ***Scheduling Your FML***

Whenever the need for FML is foreseeable, you must give the College at least 30 days' advance notice. *Notice must be given both to your manager and to the HR Office.* If the need for FML is not foreseeable, you must give notice to the College as soon as you reasonably can.

Whenever the need for FML is flexible (*e.g.*, you are having elective surgery or other medical procedure that is not urgent), we expect that you will schedule your FML at a time that minimizes disruption to the College's operations, subject to the approval of your (or the College's) health care provider. For example, faculty who can choose when to take FML should take it during winter or summer breaks or other times when they are not teaching. Employees, including faculty, should consult with their managers to explore ways in which they may take FML and cause minimal disruption to the College's operations.

### ***Your Pay and Benefits During FML***

In general, FML is unpaid unless you are disabled (see below for more information on short-term disability). If any portion of your FML is unpaid, and if you are a staff employee, you will be required to use paid leave (*e.g.*, accrued vacation) before you can take unpaid FML. If your leave is covered by the Massachusetts maternity leave law, you will not be required to use paid leave unless and until your leave exceeds 8 weeks.

During FML, the College will continue your medical and dental insurance coverage if you have elected to have such coverage, provided that you continue to pay your share of the premiums. During any portion of your FML that is paid, your share of the premiums will be deducted from your pay as usual. During any unpaid portion of your FML, you will need to send a check to the Payroll and Benefits Office by the first of each month.

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<sup>3</sup> Faculty who teach at least 3 courses or the equivalent in a given academic year will be deemed to have met the threshold of 1,250 hours.

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Call the Payroll and Benefits Office to find out how much your share of the premium is. If your payment is more than 30 days late, you may lose health insurance coverage.

If you fail to return from FML, the College is entitled to recover from you the portion of health insurance premiums that were paid by the College in your behalf, unless the reason for your failure to return is beyond your control (*e.g.*, you continue to have a serious health condition that makes you unable to perform the essential functions of your job).

While you are on FML, you do not accrue vacation time. Employees on FML do not receive pay for holidays that occur during FML.

### ***How to Apply for FML***

Tell your manager and notify HR that you are requesting FML. The HR Office will tell you what documentation is needed to consider your request, *e.g.*, medical certification, proof of adoption, etc. Once the HR Office has received the appropriate documentation, that Office will inform you whether your leave has been approved. The specific terms of your leave will be included in that notice.

Generally, you must pay the costs of providing medical certification. If the College requires you to see a health care provider other than the one you have chosen, the College will pay the cost.

### ***How Much FML You Can Take and When It Begins***

FML will begin after you have missed five (5) days of work due to illness or disability, whether or not such days are consecutive or intermittent. The first 5 days of absence are counted against your sick time.

You are entitled to a maximum of 12 weeks' FML during a 12-month period. The 12-month period is a rolling period measured backward from the date you use any FML. Each time you take FML, your remaining leave entitlement will be the balance of the 12 weeks that has not been used during the immediately preceding 12 months.

If you are on an approved FML when the College is closed during December, this time does not count towards your FML entitlement. Your FML will be extended by the number of days the College is closed. This does not apply to holidays that occur during December, January, or other times of the year.

If both a husband and wife are employed by the College, they are together entitled to a maximum of 12 weeks of FML during any 12-month period for child care.

You have the right to return to your position or a comparable position at the end of your FML if your FML does not exceed 12 weeks in a 12-month period. If an employee requests FML longer than 12 weeks, his/her manager may approve it, subject to the approval of the Division head (President's Council member). In determining whether or

not to extend your leave, your management team will consider several factors, including the business needs of your department, your performance, the effect of an extension on other employees, and your department's budget constraints. In some situations - for example, with faculty – it may be mutually desirable to grant a leave for the entire semester instead of a 12-week time frame. No faculty member, however, may be forced to take an entire semester off if s/he wishes to take an FML with a duration of less than a semester.

If your leave extends beyond 12 weeks or the time approved by your management team, your position will not be held open for you. One exception to this general rule is for tenured faculty, for whom the maximum length of a LOA will be determined on a case-by-case basis.

### ***Returning from FML***

As your anticipated return-to-work date approaches, please keep both your manager and the HR Office informed of your plans. If you took FMLA leave because of your own serious health condition, you will need to provide, on or before your return to work, a written statement from your health care provider certifying that you are able to resume working.<sup>4</sup> This statement should be sent directly to the HR Office.

If there are any limitations on your ability to perform the essential functions of your job, your health care provider must describe, in his/her written statement, what the limitations are, why they exist, and their expected duration.

### ***Intermittent FML***

In accordance with the Federal Family and Medical Leave Act, intermittent FML is available to you for the following reasons:

- (a) for planned or unanticipated medical treatment;
- (b) for recovery from a serious health condition; or
- (c) to provide care to a family member (defined as spouse, spouse equivalent, dependent child, step-child, or parent) who has a serious health condition.

If your medical treatment is planned, you must try to schedule such treatment in a way that does not unreasonably interrupt your department's business operations. Intermittent leave should generally be scheduled in consultation with your manager. Complications from pregnancy are considered serious health conditions for which intermittent FML is available. Generally, the College will ask that you provide regular updates on the health condition of you or your family member.

Intermittent FML can be used in increments of at least 1 hour. You should record the time you take as intermittent FML on your timesheets.

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<sup>4</sup> If you are returning to work after caring for your newborn baby – typically, more than 8 (eight) weeks after childbirth - you do not need to provide written certification.

Generally, intermittent FML is unpaid. You may, however, use your sick and vacation time so that your leave time is paid. If and when your FML extends beyond 5 consecutive workdays, then you may be paid in accordance with the College's STD program (see the policy on STD below).

Intermittent leave to care for a newborn or child placed for adoption or foster care is available only with your manager's advance approval.

### ***SHORT-TERM DISABILITY***

The purpose of our short-term disability ("STD") policy is to provide some income when you are absent from work due to a non-work related illness, injury, accident, or pregnancy. If you have a disability that makes you medically unable to perform the essential functions of your job, you may be eligible to receive short-term disability pay. You must provide certification from a physician of your disability. Pregnancy, complications from pregnancy, and delivery are considered to be disabilities. The College may require you to be examined by a College-designated physician, at our expense. Typically, STD will run concurrently with another type of leave, such as FML.

You are eligible for short-term disability pay if:

- You have worked for the College for at least 12 consecutive months prior to the time your disability begins; and
- You have worked at least 1,250 hours over the 12 months immediately prior to the time your disability begins<sup>5</sup>; and
- You intend to resume your work at the College when you are no longer disabled; and
- The reason for your disability is not work-related (work-related illnesses, injuries and disabilities may be paid under our workers' compensation policy).

Effective 7/1/06, Simmons will be working with The Standard Insurance Company to assist us in evaluating disability claims.

If you are approved for Short Term Disability benefits, your benefits for the first eight (8) weeks of disability leave are based upon your years of service (see chart on page 7) then from weeks 9-26 (if you remain disabled), pay is reduced to 60%.

If you have a disability and meet the eligibility requirements through the STD application process, you will receive pay according to the following information:

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<sup>5</sup> Faculty who teach at least 3 courses or the equivalent in a given academic year will be deemed to have met the threshold of 1,250 hours.

Date of Hire		Percentage of Pay Up to 8 Weeks	Percentage of Pay After 8 Weeks
On/After	July 1, 2000	60%	60%
On/Between	July 1, 1999- June 30,2000	65%	60%
On/Between	July 1, 1998- June 30, 1999	72%	60%
On/Between	July 1, 1997- June 30, 1998	79%	60%
On/Between	July 1, 1996- June 30, 1997	86%	60%
On/Between	July 1, 1995- June 30, 1996	93%	60%
On/Before	June 30, 1995	100%	60%

Additionally, employees will have the option to supplement their disability pay with accrued and unused sick and vacation time to make up the difference in pay from STD to 100% pay.

The elimination period for Short-term disability is 7 calendar days (for the first 5 work days, you are expected to use sick leave or accrued, unused vacation), so disability pay (pending approval process) begins on the 8<sup>th</sup> day of an accident, injury, or illness. If you are able to return to work, but still need to use FML on an intermittent basis, you will no longer receive short-term disability pay (see above section on intermittent FML”).

**A new paid parental leave benefit**

Simmons doesn’t offer any paid leave for employees who become mothers and fathers (by adoption or birth by their spouse). We also don’t offer any paid leave to adoptive parents. Simmons offers paid leave to birth mothers because giving birth is considered a medical condition – a short-term disability. Starting July 1, Simmons will provide two weeks paid leave (10 days) to new parents who are benefits eligible.

This benefit would not change anything regarding leave under the Family and Medical Leave Act. People are often confused about their FMLA rights. FMLA leave is about job protection, not about pay. FMLA leave is not paid leave. And birth parents and adoptive parents can take up to 12 weeks of unpaid, job protected leave upon the birth or

adoption of a child. This new parental leave benefit will enable new parents to be paid for two weeks of any leave they may take upon the birth or adoption of a child.

Some examples of how this new benefit might work.

Example: The spouse of a staff member gives birth. The staff member seeks to take leave to assist with the baby. If the employee has been employed by Simmons for at least 12 months and has worked at least 1,250 hours in the previous 12 months, s/he would be entitled to 12 weeks of unpaid BUT job protected leave under the FMLA. In addition, s/he could help “pay” for that unpaid leave in three ways:

- S/he could use up any of his accrued, unused vacation days to pay for the otherwise unpaid leave; AND
- S/he could use up to five (5) of accumulated but unused sick days to help care for his new child; AND
- S/he would receive 10 days pay under this new parental leave benefit.

### ***LONG-TERM DISABILITY (“LTD”)***

If you have a serious health condition that makes you unable to perform all or some essential functions of your job for longer than 26 weeks (6 months), your short-term disability pay generally ends. You are eligible to apply for long-term disability pay from our insurance carrier (currently The Standard Insurance). The amount of LTD coverage you get is based on your salary. LTD coverage provides 60% of your basic monthly earnings, up to a maximum of \$8,000 per month. The HR Office will provide you with an application to submit to The Standard Insurance Company. The Standard Insurance Company makes the final determination as to whether you will receive LTD benefits.

### ***SMALL NECESSITIES LEAVE***

If you are eligible for FML, you are also entitled to leave under the Massachusetts Small Necessities Leave Act. Under this law, you are entitled to take up to 24 hours of unpaid leave during a 12-month period to attend your child’s school activities or medical appointments or to accompany an elderly relative to routine medical, dental, or eldercare service appointments. We require that you use accrued, unused vacation time when you take Small Necessities Leave. If you do not have accrued, unused vacation, your small necessities leave time will generally be unpaid. Small Necessities leave is in addition to, not a replacement for, FML. You must give your manager 7 days’ notice when the Small Necessities leave is foreseeable. Managers must track the usage of Small Necessities leave and notify the HR Office.



***JURY DUTY***

See current Employee Handbook.

***BEREAVEMENT LEAVE***

See current Employee Handbook.

***MILITARY LEAVE***

See current Employee Handbook.

***PERSONAL LEAVE***

See current Employee Handbook.

***SABBATICALS***

See the Faculty Policy Manual, which describes the purpose of faculty sabbaticals and the procedures for seeking them. Sabbaticals are not available to staff.

***YOUR RESPONSIBILITIES WHEN TAKING LEAVE***

When you request, and are on, one or more of the above leaves, you have certain obligations to the College, as noted below.

- (a) Whenever you will be absent from work and your manager does not expect your absence, you must call him/her as soon as possible to let him/her know
  - 1. that you will not be at work;
  - 2. the reason for your absence;
  - 3. when you expect to return to work;
  - 4. how your responsibilities can be handled while you are out; and
  - 5. how you may be reached.
- (b) You must provide medical certifications and/or other documentation as requested by the Human Resources Office.
- (c) You must inform HR if the reasons for, or circumstances surrounding, your leave change while you're on leave.

- (d) While you are on leave, you cannot do anything that is inconsistent with the purpose for your leave. While you are on leave, you cannot do anything that is, or could be perceived to be, a conflict of interest with respect to your relationship with the College.