

15.00 Leaves Of Absence

15.01 FAMILY AND MEDICAL LEAVE

15.02 ELIGIBILITY FOR FAMILY AND MEDICAL LEAVE

If you are eligible for Family and Medical Leave (“FML”), you may take up to 12 weeks leave in a rolling 12-month period measured forwards from the date the first leave began. FML can be taken for any of the following reasons:

- For the birth and care of a newborn or newly adopted or newly placed foster care child during the 12 months following the child’s birth or placement.
- To attend to your own serious health condition that leaves you unable to perform your job.
- To care for your child, spouse or parent who has a serious health condition.
 - o The term child is defined as: a biological, adopted or foster child under the age of 18; anyone who is treated as your child who is under age 18, which may include the child of your spouse who lives with you or your grandchild who lives with you; and any physically or mentally disabled child of any age who is incapable of self-care.
 - o The term spouse is defined as your husband or wife recognized by applicable state laws, including common law spouses recognized by state law.
 - o The term parent is defined as your biological father or mother or anyone who treated you as a son or daughter when you were under the age of 18 years. This term does not include in-laws.
- Because of any qualifying exigency arising out of the fact that your spouse, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Leave will be granted under this paragraph according to applicable governmental regulations to be issued.

You are eligible for FML if you have been employed for at least 12 months and worked at least 975 hours during the previous 12 months prior to the start of leave.

The 12-month period is defined as a “rolling” 12-month period measured backward from the date an employee uses any Family Medical leave. (Using this method each time an employee takes Family Medical Leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee used four weeks beginning February 1, 2007, four weeks beginning June 1, 2007, and four weeks beginning December 1, 2007, the employee would not be entitled to any additional leave until February 1, 2008. However, on February 1, 2008, the employee would be entitled to an additional four weeks of leave, on June 1, the employee would be entitled to an additional four weeks, etc.)

If you and your spouse are both employed by Birmingham-Southern College, the two of you will be limited to a combined total of 12 weeks of FML for the birth or placement of a child or to care for a parent with a serious health condition. You may use any unused portion of the 12 weeks for your own serious health condition, to care for a seriously ill child, or to care for your seriously ill spouse.

15.03 NOTICE OF FAMILY AND MEDICAL LEAVE

You must provide Birmingham-Southern College at least 30 days’ advance notice before leave is to begin if the leave is foreseeable based on a birth, adoption, foster care or planned medical treatment for a serious health condition of yourself or your family member. When 30 days’ notice is not possible, you must give as much notice as is practicable under the circumstances.

You must provide a Certification of Health Care Provider to support a leave request due to the medical condition of yourself or your family member. Blank forms are available from the Human Resources Office.

Failure to provide a completed Certification of Health Care Provider within 15 days or failure to provide a 30 day advance notice of foreseeable leave may result in the delay or denial of leave.

Birmingham-Southern College may request re-certification every 30 days for a serious health condition, depending upon the circumstances. Birmingham-Southern College reserves the right to designate time as FML, including workers compensation leave.

While on FML, you are required to stay in contact with the Human Resources Office (226-4644) and your supervisor every 30 days regarding your status and intent to return to work.

When your requested leave is because your spouse, child or parent is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, and the need for leave is foreseeable, you must provide as much notice as is reasonable and practicable. You must provide certification in such time and such manner as the Secretary of Labor prescribes by regulation.

15.04 MILITARY SERVICE MEMBER FAMILY LEAVE

If you are eligible for FMLA leave, and you have a spouse, child, parent, or next of kin who is a “covered servicemember,” you are entitled to up to 26 workweeks of leave during a 12-month period to care for the servicemember. This leave is only available during a single 12-month period. A “covered servicemember” is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term “serious injury or illness” means an injury or illness incurred by the servicemember in line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating. The term “next of kin” means the nearest blood relative of the covered servicemember. During the 12-month period described in this paragraph, you may be entitled to a combined maximum total of 26 weeks of leave. If you and your spouse are both employed by Birmingham-Southern College, the two of you will be limited to a combined total of 26 weeks for all leave taken under the FML policy.

15.05 PAY AND BENEFITS DURING FAMILY AND MEDICAL LEAVE

You must substitute all available paid leave for any unpaid leave entitlement under the Family and Medical Leave Act. The employee who returns to work after FML unpaid leave will not accrue sick and annual leave for that month in which the employee is unavailable to work at least 15 calendar days.

Your health insurance benefits will be maintained while on FML. Birmingham-Southern College’s and your share of the health plan premium will be paid in the customary manner. If any pay you receive while on FML is insufficient to cover your portion of the premiums, Birmingham-Southern College will notify you of the amount due. If you fail to pay your portion of the premiums after notification by Birmingham-Southern College, your coverage may be cancelled.

15.06 RESTORATION TO EMPLOYMENT

You generally have the right to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the end of the leave.

Birmingham-Southern College may decline to restore you to the same or equivalent position upon return from leave to prevent substantial and grievous economic injury to the operations of Birmingham-Southern College if you are a key employee. You are a key employee if you are salaried and among the highest paid 10% of the employees. You will be notified in writing of that status if Birmingham-Southern College believes there is a possibility you will not be restored at the end of the FML period.

15.07 INTERMITTENT OR REDUCED LEAVE

You may take intermittent leave or may work a reduced leave schedule to reduce the usual number of hours per workday or workweek. Intermittent or reduced leave schedules are subject to employer approval unless medically necessary.

15.08 MILITARY LEAVE

Birmingham-Southern College complies with all federal and state laws for the protection of employment rights of those persons serving in the Uniformed Services. Birmingham-Southern College prohibits discrimination against you because you belong to, have served in or are applying to join a Uniformed Service, or because you have exercised your statutorily protected military leave rights.

You must notify your immediate supervisor and the Human Resources Office as soon as you know of the likely date of the beginning of military activity that might require leave. Notice must be received no less than five (5) days before the leave is to begin, unless military necessity prevents such notice or it would otherwise be impossible or unreasonable.

You must provide a copy of your orders to your supervisor and the Human Resources Office no later than 24 hours after you receive them.

15.09 BENEFITS DURING MILITARY LEAVE

If you are on active duty and unable to use your annual leave due to Military Leave, you may request to be paid accrued unused annual leave time on the next pay period. Upon your return from Military Leave, you will receive Holiday Pay for Holidays which occurred during your absence, if eligible. You may continue your medical insurance coverage while on military leave, subject to normal cost-sharing. If you wish to cancel your medical coverage, you must contact the Human Resources Office. Premiums will be deducted from any pay that you receive during leave. If any pay you receive is insufficient to cover your portion of the premiums, you may pay the premiums to the College monthly.

15.10 RETURN FROM MILITARY LEAVE

When you return from military leave, you will be restored from military leave to your job, consistent with and subject to the exceptions contained in the Uniformed Service Employment and Reemployment Rights Act (USERRA).

Military leave generally extends up to five (5) years. Military leave may be extended under certain circumstances, and there are certain types of service that do not count toward the 5 year limit.

If you are on military leave for 30 days or less, you must report back to work on the first regularly scheduled shift after the end of your service, allowing reasonable travel time. If your leave extends more than 30 days, you must apply for reinstatement in accordance with USERRA and all applicable state laws. To apply for reinstatement, you must contact the Human Resources Office. Do not contact your supervisor. If your military leave extends more than 30 days, you must submit documentation showing that:

- your application for reemployment is timely;
- you have not exceeded the five year limit;
- your separation or discharge from service does not disqualify you from reemployment rights.

Upon return from Military Leave, you will be placed in the position you would have attained had you remained continuously employed or in a comparable position, depending on the length of military service in accordance with USERRA. You will be treated as though you were continuously employed for purposes of determining benefits based on length of service.

Upon your return to work, you may deposit your contributions to the 403(b) plan for the period of your military service. The College will make retroactive contributions to your retirement plan on the same basis as if you had not left, provided you were an enrolled member of the retirement plan at the time of leave. The percentage of contribution will be made on the base salary you would have earned taking into account any pay increases that may have occurred during the leave. The portion of the College contribution is dependent on your contribution.

The make-up payment period cannot exceed three (3) times the period of military service or five (5) years, whichever is less.

While on military leave you will not accrue annual leave or sick leave.

15.11 PERSONAL LEAVE

Birmingham-Southern College defines a personal leave of absence as an absence without pay and authorized in advance. Short-term personal leave is less than three (3) months and requires advance approval by your supervisor and general officer. Extended personal leave is more than three (3) months and must be approved in advance by your supervisor, general officer, and the President of the College.

You will not accrue annual leave or sick leave during personal leave of absence. Insurance benefits will continue as long as you pay all portions of the benefit costs. This continuance of benefits will not be extended beyond three (3) months unless you make a written request to the Director of Human Resources. The Director of Human Resources and the Vice President for Administration will review each case and make a decision.

15.12 PROFESSIONAL LEAVE

Birmingham-Southern College defines a professional leave of absence as an absence without pay and authorized in advance. Short-term professional leave is less than three (3) months and requires advance approval of your supervisor and general officer. Extended professional leave is more than three (3) months and must be approved in advance by your supervisor, general officer, and the President of the College.

You will not accrue annual leave or sick leave during the professional leave of absence. Insurance benefits will continue as long as the staff member pays all portions of the benefit costs. This continuance of benefits will not be extended beyond three (3) months unless you make a written request to the Director of Human Resources. Staff members granted professional leave for work activities related to purposes and goals of the College may be allowed to return to the same compensation benefits as those acquired by staff in comparable positions on recommendation of the appropriate general officer. The Director of Human Resources and the Vice President for Administration will review each case and make a decision.