



NUMBER: 351

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (FMLA)

EFFECTIVE DATE: AUGUST 15, 2005

EFFECTIVE DATE OF LAST REVISION: JANUARY 24, 2011

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351.1 — POLICY

In compliance with federal regulations, Bridgerland Applied Technology College (BATC) has established a policy regarding time off work which qualifies under the Family and Medical Leave Act (FMLA) of 1993. This policy operates in conjunction with BATC's annual leave, sick leave, and personal leave without pay policies. All employees who are covered under the provisions of the FMLA laws are eligible. Questions regarding how these policies work to the mutual benefit of the employee and BATC should be directed to the Accounting Department. FMLA generally entitles qualified employees working for BATC up to 12 weeks of leave (paid or unpaid) per year to handle family or medical situations that arise without fear of losing their job during or because their absences. The types of circumstances, that are more specifically outlined below, triggering FMLA leave include the addition to the employee's family of a new child (either by birth or adoption) or the affliction of the employee, his or her spouse, parent, or child with a "serious health condition."

An eligible employee (defined as having worked for BATC for at least 12 months and having completed at least 1,250 hours prior to the start of the FMLA leave) may use paid (if available) and/or unpaid leave up to a maximum of 12 weeks for an FMLA qualifying event (outlined in the law and summarized below in 351.3). The 12-month period begins on the first day of a FMLA qualifying leave. Even if an employee experiences more than one (1) of these events in a 12-month period, only a total of 12 weeks FMLA leave will be granted. The 12 weeks of FMLA leave are not required to be used consecutively. FMLA may be used on an intermittent or reduced hour basis if medically necessary for an employee's or family member's serious health condition, or for the care of a child who has been born, adopted, or placed for foster care. To the extent possible, employees should make reasonable efforts to schedule leave in advance.

351.2 — DEFINITIONS (SPECIFICALLY FOR USE WITH THIS POLICY)

351.2.1 — Family Members

Family members include the employee's spouse, child (natural, adopted, step, or foster), parent, and parent-in-law.

351.2.2 — Serious Health Condition

A serious health condition is: (1) a condition which requires an overnight stay in a hospital, hospice, or residential medical facility; (2) a condition requiring absence from work, school, or other regular daily activities for more than three (3) calendar days, and which requires continuing treatment by, or under the supervision of, a health care provider; or (3) a condition requiring continuing treatment for a chronic or long-term health condition which, if not treated, would result in an absence of more than three (3) days. BATC may require the employee to provide medical certification of the serious health condition of either the employee or the family member.

351.2.3 — Continuing Treatment

Continuing treatment is defined as: (1) treatment on two (2) or more occasions by a health care provider or by a paraprofessional under the supervision of a health care provider; (2) treatment on at least one (1) occasion by a health care provider who thereafter supervises a regimen of continuing treatment (e.g., a course of medication or therapy); or (3) treatment in the course of a long-term or chronic condition or disability requiring the continuing supervision, but not the active treatment, of a health care provider.



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351.3 — PROCEDURES

351.3.1 — Provisions

An eligible employee (defined as having worked for BATC at least 1,250 hours during the 12 months prior to the start of the FMLA leave) may use paid leave (if available) and/or unpaid leave up to a maximum of 12 weeks during any 12-month period, for the following reasons:

351.3.1.1 — the serious health condition of the employee, including continuing treatment;

351.3.1.2 — the birth of a child or the placement of a child for adoption or foster care. The 12-week FMLA leave period must be completed within 12 months of the birth, adoption, or foster care placement of the child; and/or

351.3.1.3 — the care of the employee's family member due to a serious health condition. The 12-month period begins on the first day of a FMLA qualifying leave. Even if an employee experiences more than one (1) of these events in a 12-month period, only a total of 12 weeks FMLA leave will be granted. Additional, non-FMLA qualifying leave (paid or unpaid) may be granted according to the provisions of the BATC's annual, sick, and leave without pay policies.

351.3.2 — Intermittent Leave

The 12 weeks of FMLA leave are not required to be used consecutively. FMLA leave may be taken on an intermittent or reduced hour basis if medically necessary for an employee's or family member's serious health condition, or for the care of a child who has been born, adopted, or placed for foster care. Employees should make all reasonable efforts to schedule such leave in advance.

351.3.3 — Paid Leave During FMLA Leave

351.3.3.1 — Paid Sick/Annual Leave

The employee may use any accumulated sick and/or annual leave during a FMLA leave according to the provisions of BATC's sick and annual leave policies. In all other situations, leave without pay will apply.

351.3.3.2 — Worker's Compensation Leave

An absence from work due to an on-the-job injury or illness, which qualifies as a Worker's Compensation absence, also qualifies as an FMLA absence.

351.3.4 — Benefit Continuation During FMLA Leave

BATC will continue health benefits (medical and dental insurance coverage) for benefits eligible employees during any paid or unpaid FMLA leave on the same basis as for active employees.

The regularly deducted premiums due for medical and dental coverage, if any, during periods of unpaid FMLA leave will be collected according to existing procedures for premium payment during an approved leave without pay. Employees will be contacted by the Accounting Department regarding provisions for payments.

BATC will retroactively charge the employee for BATC's portion of the medical and/or dental premiums during an unpaid FMLA leave if the employee does not return to work after the FMLA leave for reasons other than the continuation of a



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serious health condition or for other reasons beyond the control of the employee. Employees are considered as having returned to work after being back at work for at least 30 days.

Non-health care benefits may be continued during an unpaid FMLA leave according to the current practice for any employee on an approved leave without pay.

351.3.5 — Reinstatement of Position and Benefits

BATC guarantees to return the employee to the previous position, or a position of similar status, seniority, and pay, after the FMLA leave. Upon return to work, no proof of insurability or pre-existing condition clause will apply to the employee to return to the same level of benefit coverage that he or she was enrolled in before the FMLA leave. This provision will apply even if the employee waived the coverage during the period of an unpaid FMLA leave.

No guarantee of return to work will extend to the employee beyond the FMLA leave period. However, BATC reserves the right to allow an employee who is absent for FMLA eligible reasons for a period exceeding the FMLA time periods to return to work if BATC administration determines there is a legitimate business reason(s) to do so. BATC intends that the making of such an allowance that is determined to be in the best interest of both BATC and the returning employee will not create an entitlement to all employees who wish to return to work outside of the FMLA rules or time periods.

351.3.6 — Medical Certification

BATC may require an employee to have a health care provider certify his or her need for medical leave or the need for the medical care of a spouse, child, or parent. BATC may also require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. The Accounting Department will notify the employee of the need for this certification or periodic report. Requests for medical certification will be requested when the facts and circumstances of the particular employee's circumstances indicate that there may be a question as to the legitimacy of the FMLA absence request. The decision to request medical certification requires direction from the Campus President or any Vice President.

351.3.7 — Fitness for Duty Requirement

BATC may require the employee to provide a fitness for duty certification before the employee returns to work. The employee will be notified of this requirement by the Accounting Department. The decision to require certification of fitness for duty may only be made by the Campus President or any Vice President and will be based on a legitimate business reason(s). Fitness for duty examinations, if required, must be job-related and paid for by BATC.

351.3.8 — Failure to Return to Work

An employee who fails to return to work after the 12-week leave period will relinquish his or her rights under the FMLA.

351.3.9 — Nondiscrimination

BATC will not discriminate against an employee for taking his or her FMLA leave, in accordance with the nondiscrimination provisions of the law. In accordance with the regulation, BATC will not discriminate in any of the following ways:

1. An employer (BATC) is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by FMLA.



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2. An employer (BATC) is prohibited from discharging or in any other way discriminating against any person (even non-employees) for opposing or complaining about any unlawful practice under FMLA.
3. All persons are prohibited from discharging or in any other way discriminating against any person (whether or not an employee) because that person has:
 - (a) filed any charge or instituted any proceedings under the FMLA; or
 - (b) is about to give any information in connection with any inquiry or proceeding relating to a right under the FMLA; or
 - (c) testified, or is about to testify, in any inquiry or proceeding to a right under the FMLA.

BATC is also generally prohibited from discriminating against employees or prospective employees who have used FMLA leave.

351.4 — RESPONSIBILITY

351.4.1 — Department Heads and Supervisors

Department heads and supervisors are responsible for immediately notifying the Accounting Department in writing of requests for FMLA leave.

351.4.2 — Accounting Department

The Accounting Department is responsible for assisting with the implementation and administration of this policy and for maintaining required employee documentation necessary for requesting and processing leaves. The department is also responsible for decisions about second and third opinions, ensuring all employees are aware of the Family and Medical Leave Policy, and posting the federal notice of the Family and Medical Leave Act of 1993.

351.4.3 — Employees

Employees are responsible for providing as much notice as possible when requesting leave, requesting leave in writing to the extent that it is reasonably practical, complying with requests for documentation, maintaining contact with their supervisors, and returning to work as scheduled. Generally, an employee is deemed to give notice when he or she simply states the reason for the leave, the anticipated start date, and the expected duration to the employee's immediate supervisor and the Payroll/Controller's Office. The employee does not have to state that he/she is exercising his or her FMLA rights but merely has to state an FMLA qualifying reason for the leave. The notice from the employee should be in writing whenever possible. However, notice may be given orally in person, by phone, fax, e-mail, or any other reliable means of communication. In addition, leave may be given by the employee's spokesperson (e.g., spouse, adult family member, or other responsible person) if the employee is unable to do so personally. In situations where leave is "foreseeable," BATC requires a 30-day advance written notice. If an employee fails to give adequate notice in situations where the leave is "foreseeable," BATC will not deny the FMLA leave, but may delay the commencement of the leave.