coverage previously paid by the College during the leave without pay. All salary, and other related benefits, including leave accruals, will be discontinued during the period of leave without pay.

(3) **Right to return to position.** An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position or a comparable position at the College. The right of an employee on leave without pay to return to his/her original position or a comparable position shall expire 24 months from the date of the start of leave without pay.

(4) **Medical statement.** An employee on leave without pay pursuant to the provisions of this section shall provide to the Office of the Executive Director, Human Resources/Affirmative Action Officer a medical statement as to his or her ability to perform the duties of the position at least every three months.

(5) **Compensation claim denial.** If a workers' compensation claim based on such illness or injury is denied during the 12-month period, all benefits, rights, and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

**Sec. 3-13. Use of sick leave for retirement purposes**

College employees who retire under the Oklahoma State Teachers' Retirement Act are permitted to use up to 120 days of accumulated sick leave for retirement purposes.

**Sec. 3-14. Discretionary leave for personal reasons**

(a) **Approval of leave.** Upon prior approval of the appropriate administrator, 40 hours of discretionary leave per year are allowable without loss of pay. The 40 hours of leave do not accrue. Faculty are charged hour-for-hour on class assignments and posted office hours missed. Additional policies for such absences come under annual leave or family medical leave.

(b) **Funeral services of College employees**

(1) No leave would be charged when an immediate supervisor and/or area administrator(s) attend(s) funeral services for an employee in his/her area;

(2) discretionary or other appropriate leave must be recorded when College staff attend funeral services of a College employee.

(c) **Unusual circumstance.** In the event of unusual circumstance, the College President may, upon appropriate request and proper documentation, grant additional leave.

**Sec. 3-15. Family and Medical Leave Act of 1993 (FMLA)**

It is the policy of Rose State College (“RSC”) to comply fully with the requirements of the Family and Medical Leave Act of 1993, (the “Act”) as amended by Section 585 of the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. This Act requires that a covered employer provide up to twelve (12) workweeks of unpaid leave to eligible employees. Leave may be unpaid or paid based on the applicable leave policies of RSC. Eligible employees are those employees who: (1) have been employed for at least one year by RSC; (2) worked at least 1,250 hours during the previous twelve-month period; and (3) have requested leave for a reason covered by the Act.

(a) **Qualifying reasons for leave.** All eligible employees who meet the Act’s requirements may be granted a total of twelve (12) workweeks (i.e., sixty [60] work days) of paid or unpaid
family leave, sick, vacation, and discretionary leave combined, during any year as defined in this policy, for the following reasons:

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;
2. Because of the placement of a son or daughter with the employee for adoption or foster care;
3. In order to care for the spouse, child, or parent of the employee, if such spouse, child, or parent has a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform his or her job functions; or
5. Because of any qualifying exigency arising out of the fact that the spouse, child, or parent of the employee 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.

(b) **Servicemember family leave.** An eligible employee who is the spouse, child, parent, or next of kin (i.e., the nearest blood relative of that individual) of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. The leave described in this subsection shall only be available during a single 12-month period.

During the single 12-month period described in the above paragraph, an eligible employee shall be entitled to a combined total of 26 workweeks of leave under subsections (a) and (b). Nothing in this subsection shall be construed to limit the availability of leave under subsection (a) during any other 12-month period.

(c) **Definitions.** A more extensive list of terms and their meaning used in the Act is available through the U.S. Department of Labor website. For the purpose of this policy, the following terms have been defined.

The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves either in-patient care or continuing treatment by a healthcare provider. This term is intended to cover conditions or illnesses affecting health to the extent that in-patient care is required, or absences are required on a recurring basis or for more than just a few days. A “serious health condition” does not cover short-term conditions for which treatment and recovery are very brief. Such conditions would normally be covered by RSC’s sick leave policies.

The term “serious injury or illness,” in the case of a member of the Armed Forces, National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

The term “year” shall mean a rolling 12-month period measured backward from the date an employee uses any leave.

(d) **Availability of leave.** In determining the availability of leave, RSC will consider the leave available to a person (whether paid or unpaid) by virtue of existing leave policies. The intent of RSC is to ensure each individual covered by the Act shall have the leave benefits available as a result of the law’s requirements. It is not the intent of RSC or this policy to provide leave benefits that exceed those authorized by existing law as supplemented by the Act. Thus, an eligible employee may elect to use any accrued paid vacation, discretionary, and sick leave for any part of the 12-week period. In the event the use of accrued leave results in less leave than is
required by the Act, an eligible employee will be entitled to such additional unpaid leave as is necessary to result in the minimum leave specified in the Act for covered employees.

Also, an employee may elect a leave without pay status for any part of the 12-week period. If an employee elects a leave without pay status, he or she will not accrue annual or sick leave during the leave.

Where the employee’s spouse is also employed by RSC, the total number of workweeks of Act leave to which both spouses are entitled is limited to 12 workweeks during a year if such leave is for the birth of a child; or to care for a sick child or parent; or for placement for adoption; or foster care of a child.

Where a husband and wife are entitled to Servicemember Family leave and are both employed by RSC, the total number of workweeks of Act leave may be limited to 26 workweeks during the single 12-month period described in “Servicemember Family Leave” (subsection b) or a combination of leave under “Servicemember Family Leave” (subsection b) and “Qualifying Reasons for Leave” (subsection a).

(e) **Application for leave.** An “Application for Family or Medical Leave” can be obtained from the Human Resources Services office. An employee requesting leave must complete an application and state the reason for the leave, the duration of the leave (if known), and the starting and ending dates of the leave.

The application for leave is to be submitted to the employee’s immediate supervisor at least thirty (30) days before family or medical leave because of an expected birth or placement of a child, or because a planned medical treatment is to begin. If for reasons beyond the employee’s control the leave is to begin in less than thirty (30) days, an employee must give notice to his or her immediate supervisor as soon as is practicable, ordinarily within two to three working days of when the employee learns of the need for leave.

In the absence of an application for leave from an eligible employee, RSC may place an eligible employee on FMLA leave if the employee is absent for any of the reasons set forth above in the “Qualifying Reasons for Leave” and/or the “Servicemember Family Leave” subsections.

(f) **Medical certification statement.** A “Medical Certification Statement” must accompany an application for leave based on the serious health condition of the employee, the employee’s spouse, child or parent. Also, a “Medical Certification Statement” is required of the next of kin of an individual in the case the leave is taken under the provisions listed under “Servicemember Family Leave.” The statement must be completed by the applicable healthcare provider. It must state the date on which the health condition began, the estimated duration of the condition, and the relevant medical facts related to the condition. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her position. In the event the employee is applying for leave to care for a spouse, child, parent or an individual who is eligible under the “Servicemember Family Leave” provision, the certification must state an estimate of the amount of time the employee will be needed. A “Medical Certification Statement” may be obtained from the Human Resources office.

Rose State College may require subsequent certifications to support FMLA leave but not more often than every thirty (30) days unless the employee: (1) requests an extension of leave; (2) circumstances described by the original certification have changed regarding the illness or injury; or (3) RSC receives information that casts doubt on the validity of an existing certification.
If the validity of the “Medical Certification Statement” is questioned, RSC reserves the right to require the employee to obtain a second medical opinion at RSC’s expense. If the medical opinions of the first and second healthcare provider differ, RSC may require a third opinion from a healthcare provider mutually agreed upon by RSC and the employee. The third opinion shall be final and binding.

If the employee has taken leave due to his or her serious health condition and when the employee is prepared to return to work, he or she must provide certification by his or her healthcare provider that the employee is able to resume work. If an employee intends to return to work before the expiration of family and medical leave, he or she must provide RSC with at least two working days’ notice of his or her intent to return and a doctor’s release to resume work.

(g) **Intermittent leave or leave on a reduced leave schedule.** An employee may request to use available leave intermittently or on a reduced leave schedule. Where leave is requested in connection with a serious health condition of the employee or his or her immediate family member, the request for leave must be supported with a medical certification statement from the healthcare provider that such leave is medically necessary and stating the expected duration and schedule of such leave. There must be a medical need for the leave and evidence that medical need can best be accommodated through an intermittent or reduced leave schedule. Any eligible employee seeking leave on an intermittent or reduced leave basis must obtain and complete a request for leave and must submit the medical certification required.

Intermittent or reduced leave may also be taken in connection with the birth or because of the placement for adoption or foster care of a child. However, intermittent leave or leave on a reduced leave schedule for this purpose may only be taken with the approval of the employee’s immediate supervisor, the appropriate Vice President, and the President.

Furthermore, leave qualifying under active duty or call to active duty (subsection (a) (5)) may be taken intermittently or on a reduced leave schedule. Rose State College may require that a request for leave under this subsection be supported by a certification issued at such time and in such a manner as the U.S. Department of Labor Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to RSC.

When requesting intermittent or reduced schedule leave, an employee shall work with his/her supervisor to establish a work schedule that meets the employee’s needs without unduly disrupting RSC’s operations. Rose State College reserves the right to place the employee in an alternative position with equivalent pay and benefits to better accommodate an intermittent or reduced schedule leave.

(h) **The effect of leave on benefits.** During a period of family or medical leave, an employee will be retained on RSC’s healthcare benefits. Rose State College and the employee will continue to pay their customary portions of the monthly premium. In order to continue medical insurance coverage the employee must continue to make any contributions that he or she made to the plan before leave. Failure of the employee to pay his or her share of the premiums may result in loss of coverage. The Payroll/Benefits office will advise the employee of the payment due dates.

If the employee fails to return to work after the expiration of unpaid leave, the employee may be required to reimburse RSC for payment of health insurance premiums. The President may waive this requirement if the reason the employee fails to return is the presence of a serious health condition that prevents the employee from performing his or her job or to circumstances beyond the employee’s control.
The employee may not accrue any seniority or employment benefits (such as accrued annual or sick leave) that would have accrued if not for the taking of unpaid leave. If an employee elects to use any accrued paid vacation, discretionary and sick leave for any part of the twelve (12) week period, his or her leave accrual during leave will be determined under the policies set forth for the type of leave the employee has elected to have FMLA leave charged.

(i) **Reinstatement to former position.** An employee generally is entitled to be restored to an equivalent position and to equivalent conditions of employment. This may not be applicable to employees who are designated as “highly compensated employees.” Rose State College cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an “equivalent position” will be made by RSC. A highly compensated employee is one who is salaried and is “among the highest paid 10 percent” of the employees employed within 75 miles of the employee’s worksite. An employee who qualifies as a “highly compensated” employee may be denied restoration to employment if necessary to prevent substantial and grievous economic injury to the operations of RSC.

(j) **Failure to return from leave.** The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuance, recurrence or onset of his or her own serious health condition; the serious health condition of the employee’s spouse, child, or parent; or the individual concerning whom the leave was taken under the provisions listed under “Servicemember Family Leave,” must submit a written request for extension to the employee’s immediate supervisor with a copy to the President’s office. This written request should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave period.

Rose State College intends to remain faithful to the requirements of the FMLA. Questions regarding the interpretation, administration, and application of the Act to eligible employees shall be resolved by reliance on the mandatory obligations created by the FMLA and its interpretive regulations. Where relevant, RSC will consider its own policies, procedures, and practices.

**Sec. 3-16. Jury duty and required court appearance**

(a) **Jury duty.** When a regular employee of the College is summoned to jury service or as a witness in city, state, or federal courts, leave with pay may be granted. A copy of the summons to report for jury service shall be given to the immediate supervisor and forwarded to the Payroll/Benefits office. Written verification of actual jury service must be provided by the employee. Payment for jury duty will be retained by the individual serving on jury duty.

(b) **Required court appearance.** No deduction in salary will be made if an employee must appear in court when subpoenaed as a witness. This privilege does not normally apply to court cases involving an employee’s personal.

**Sec. 3-17. Professional leave**

Requests for professional leave of College employees to attend conferences, committee meetings, and other professional activities should be submitted in writing through the proper administrative channels for approval. Professional leave for in-state activities will be approved by the appropriate Vice President’s office before forwarding to the Administrative Services office. Out-of-state activities will be approved by the appropriate Vice President and approved