

**FORT LEWIS COLLEGE
EDUCATIONAL ASSISTANCE PLAN**

Effective January 1, 2014

TABLE OF CONTENTS

Page

ARTICLE I
DEFINED TERMS

Section 1.01. In General..... 1

ARTICLE II
PLAN ELIGIBILITY

Section 2.01. Eligibility 2
Section 2.02. Termination of Eligibility 2

ARTICLE III
BENEFITS

Section 3.01. Requirements for Benefits 3
Section 3.02. Eligible Courses 3
Section 3.03. Exclusions 4
Section 3.04. Benefit Limits 4
Section 3.05. Financial Aid Funding 5
Section 3.06. Military Students..... 5

ARTICLE IV
PLAN ADMINISTRATION

Section 4.01. Powers of the Committee..... 5
Section 4.02. Powers of the Employer..... 6
Section 4.03. Records and Reports 6
Section 4.04. Nondiscrimination..... 6
Section 4.05. Amendment or Termination..... 6

ARTICLE V
CLAIMS PROCEDURES

Section 5.01. In General..... 7

ARTICLE VI
GENERAL INFORMATION

Section 6.01. Funding 7
Section 6.02. FLSA Impact..... 7
Section 6.03. Effect on Employment 7
Section 6.04. Governing Law 8
Section 6.05. No Guarantee of Tax Consequences..... 8
Section 6.06. Invalid Provisions 8
Section 6.07. ERISA Exclusion 8

INTRODUCTION

Fort Lewis College (the “Employer”) maintains the Fort Lewis College Educational Assistance Plan (the “Educational Assistance Plan” or “Plan”) to waive tuition and mandatory fee expenses incurred by certain employees in an Approved Educational Program. The Plan is intended to qualify as an educational assistance plan under Section 127 of the Internal Revenue Code of 1986, as amended (the “Code”). The Educational Assistance Plan is hereby effective January 1, 2014. Authority for this plan is provided in the Fort Lewis College Fiscal Rules.

RECITALS

WHEREAS, the Employer believes the long-term success of an organization is dependent on educated, motivated and dedicated employees.

WHEREAS, a key tool in recruiting and retaining quality employees is to invest in higher education opportunities that provide current knowledge, skills and respected credentials.

WHEREAS, as a higher education enterprise, the Employer will receive even higher return on its investment in a tuition benefit program for its employees willing to invest their own time and effort to earn a Fort Lewis College degree.

NOW, THEREFORE, the Employer has adopted and implemented this Educational Assistance Plan.

ARTICLE I

DEFINED TERMS

Section 1.01. In General. This Article defines the terms used throughout this Plan and is not intended to describe Benefits:

“*Approved Educational Program*” means a course of study offered by the College that is (i) approved by the Committee as being a course of study eligible for waiver under this Plan and (ii) satisfies the requirements set forth in Section 3.02.

“*College*” means Fort Lewis College.

“*Committee*” means the committee (which may only have one member at any given time) responsible for the administration of this Educational Assistance Plan.

“*Covered Expense*” means tuition expenses incurred, or that would be incurred but for this Educational Assistance Plan, and mandatory student fees. The Plan does not cover meals, lodging, transportation, tools, supplies, equipment, course fees, textbooks or lab fees. The Plan does not cover any expenses relating to any course involving sports, games or hobbies as determined by the Committee in its sole discretion, unless the course is required for a degree as specified in a degree plan.

“*Eligible Staff Employee*” means a staff employee who meets the eligibility requirements specified in Section 2.01 of this Plan.

“*Employee*” means an individual actively employed directly by the Employer as a classified employee, administrative professional, or member of the regular faculty on a full or part-time basis who receives compensation other than a pension, retainer or fee under contract, except that Employee shall not include temporary employees, student employees, term faculty, independent contractors or any leased employees within the meaning of Section 414(n) or 414(o) of the Code. An Employee ceases to be such on the date on which he is no longer within a covered payroll classification.

“*Employer*” means Fort Lewis College Board of Trustees.

“*Plan*” means this Fort Lewis College Educational Assistance Program.

“*Plan Year*” means the 12-month period beginning January 1 and ending December 31.

“*Spouse*” shall have the meaning provided that term under Colorado law.

ARTICLE II

PLAN ELIGIBILITY

Section 2.01. Eligibility. Eligible Staff Employees may participate in this Plan. Eligible Staff Employees include Employees who satisfy the following requirements:

(a) Employee must have received satisfactory performance evaluations and/or continue to satisfactorily perform the responsibilities of his/her job while utilizing the benefits under the Plan.

(b) Employee must meet the requirements for admission and be admitted as a degree-seeking or unclassified student.

(c) Employee must remain in good academic standing. Academic standing will be checked at the beginning of each term.

(d) Administrative leave will not be granted to Employees to take College courses under this Plan and Employees may not complete coursework during regular business hours without supervisor approval. The employee must make up the time taken to attend class or take approved leave.

Where all of the above conditions (a) – (d) are satisfied, Eligible Staff Employees are immediately eligible to participate in this Educational Assistance Plan.

Employee’s Spouses and/or dependents are not eligible to participate in this Plan.

Section 2.02. Termination of Eligibility. An Employee’s eligibility under the Educational Assistance Plan shall terminate as of the earliest of:

- (a) The date this Plan is terminated;
- (b) The date as of which this Plan is amended to terminate benefits with respect to a classification of employees of which the Employee is a member;
- (c) The date on which the Employee ceases to be an Employee as a result of a change in employment status, retirement, death or other termination of employment, layoff or any other change or occurrence; or
- (d) The date on which Code Section 127 governing Educational Assistance Plans expires or is no longer in effect.

ARTICLE III

BENEFITS

Section 3.01. Requirements for Benefits. Covered Expenses for eligible staff employees will be waived if they meet the following requirements:

- (a) Prior to course registration, the Employee must complete a Staff Study Privileges Request Form to participate in the Educational Assistance Plan, obtain his or her immediate supervisor's written approval and the approval of the appropriate Vice President;
- (b) Each application must be accompanied by the course description(s);
- (c) The Employee's employment with the Employer must continue to the completion of the course or the Employee will be personally responsible for all costs; and
- (d) Employees may only use this benefit for courses where space is actually available in the course and Employees may enroll after census for any approved course that has open seats in an existing section. In no event will a tuition-paying enrollee be displaced or prohibited from taking a course due to an Employee's enrollment under this Plan. An employee who enrolls in a degree program that includes a cohort must not displace a tuition paying enrollee as of the first day of the program.

Only complete applications will be processed for approval. All incomplete applications will be denied and must be resubmitted for approval. Employees should allow for a reasonable time to process an application. Once the Human Resources Office processes an application, the Employee will receive a notification of approval or denial of the Approved Educational Program. The employee will be enrolled in the class after census and the waiver will be applied.

Section 3.02. Eligible Courses. Only Covered Expenses incurred in attending an Approved Educational Program are eligible for waiver under the Plan. Subject to the conditions and limits set forth in Section 3.03 and 3.04, Approved Educational Programs are limited to the following types of courses:

(a) Undergraduate level courses, approved course by course, offered by the College whether or not the course is attended as part of a degree program; and

(b) Graduate level courses, approved course by course, offered by the College whether or not the course is attended as part of a degree program;

The Committee will determine whether an educational program meets these requirements. In order to be eligible for waiver, a course must be taken for a grade and may not be elected on a pass/fail or audit basis

Section 3.03. Exclusions. Covered Expenses will not be waived if:

(a) The course of study was not approved by the Committee prior to the Employee's commencement of the course;

(b) The Employee is paid or reimbursed for the same Covered Expenses by a financial aid agency or any other entity;

(c) The Employee was terminated or resigned, prior to the start of the term; or

(d) The Employee does not maintain good academic standing.

In the event benefits under this Educational Assistance Plan are terminated, the Employee will be responsible for the cost of future courses until the Employee satisfies the eligibility requirements set forth in Section 2.01.

Where Employee does not maintain good academic standing, the Employee will be responsible for the cost of future courses until the Employee achieves good academic standing. Once good academic standing is achieved or the Employee becomes eligible for benefits, only future courses are eligible for the tuition benefit; the tuition benefit will not be retroactively applied to prior semesters.

Section 3.04. Benefit Limits.

(a) The maximum waiver for Covered Expenses incurred during the calendar year shall not exceed \$5,250 (or such other amount in effect under Section 127(a) of the Code) for Covered Expenses incurred in Approved Educational Program courses at the undergraduate or graduate level.

(b) Full time Eligible Staff Employees may apply for a waiver for a maximum of eight (8) semester credit hours of undergraduate courses and/or graduate level courses, or a combination thereof, per calendar year.

(c) Part time Eligible Staff Employees may apply for up to a proportional number of hours based on such Employees work schedule, with 8 credit hours representing the full time employee maximum per calendar year. For example, half time employees may receive a benefit equal to up to four (4) semester credit hours per calendar year. Credits will be rounded to the next whole credit hour.

(d) The limits described in this Section 3.04 are cumulative. Where an Employee has taken more than the allowable number of credits, the Employee shall be responsible for the cost of credits taken above the limit.

Section 3.05. Financial Aid Funding. Eligible Staff Employees may receive scholarships, State-Funded Student Financial Aid Federal Student Aid funding, also referred to as financial aid, for semesters during which they are receiving tuition benefits under this Educational Assistance Plan; however, the tuition benefit shall be reduced by the total amount of aid being received by the Eligible Staff Employee. In order to determine the award amount for benefits under this Educational Assistance Plan, the Financial Aid Office will use the amount of tuition, and fees for the student's enrollment status, subtract out the scholarships and financial aid awards accepted, and then award the tuition benefit in an amount that does not exceed the eligible benefit per term. If an Eligible Staff Employee receives aid in excess of the cost of tuition and fees the semester, the tuition waiver will be reduced and may result in no tuition award under this Educational Assistance Plan.

Section 3.06. Military Students. Eligible Staff Employees may utilize Chapter 33 benefits without affecting their eligibility for tuition benefits under this Educational Assistance Plan. If an Eligible Staff Employee uses both Chapter 33 military benefits and financial aid, such benefit will be applied before a tuition waiver is granted under the Plan.

ARTICLE IV

PLAN ADMINISTRATION

Section 4.01. Powers of the Committee. The Committee is specifically given the discretionary authority and such powers as are necessary for the proper administration of this Plan, including, but not limited to, the following:

- (a) to have the authority and discretion to interpret the Plan, to decide factual questions and disputes, to supply omissions and to resolve inconsistencies and ambiguities arising under the Plan, which interpretations and decisions shall be final and binding for purposes of this Plan;
- (b) to obtain from Employees and others such information as shall be necessary for the proper administration of this Plan;
- (c) to retain the right, authority and discretion to pay claims;
- (d) to delegate its powers and discretionary authority granted under this Section 4.01 to a third party; and
- (e) to maintain records of administration of the Plan.

No determination of the Committee in one case shall create a bias or retroactive adjustment in any other case. Expenses for the administration of the Plan shall be paid by the Employer.

Section 4.02. Powers of the Employer. The Employer is specifically given the discretionary authority and such powers as are necessary for the proper administration of this Plan, including, but not limited to, the following:

- (a) to appoint the Committee;
- (b) to employ agents and provide for such clerical, accounting, actuarial, consulting and claims-processing services as it deems necessary or desirable to assist it in the administration of this Plan;
- (c) to prescribe forms and procedures for enrollment, claim filing and other administrative purposes under the Plan and to require their use for such purposes and, notwithstanding anything in this Plan to the contrary, to establish and maintain a procedure whereby any election or other submission requiring a written form may be made telephonically or electronically and whereby elections or submissions made in accordance with such procedure shall be deemed to have been made as if on the applicable written form;
- (d) to adopt rules for the administration of the Plan;
- (e) to maintain records of administration of the Plan;
- (f) to amend or terminate the Plan; and
- (g) to give reasonable notice of the availability and terms of the Plan to Employees.

Section 4.03. Records and Reports. The Committee shall maintain all such books, accounts, records and other data as may be necessary for the proper administration of this Plan.

The Committee shall, upon the written request of an Employee, make available for examination at reasonable times during normal business hours such records under the Educational Assistance Plan in its possession as pertain to him or her.

Section 4.04. Nondiscrimination. The Employer may prospectively limit, reallocate or deny any benefit for an Employee or any group of Employees to the extent necessary to comply with any pertinent provision of the Code including, but not limited to Code Section 127(b) or other applicable law.

Section 4.05. Amendment or Termination. The Employer may amend or terminate the Educational Assistance Plan at any time, with or without notice to Employees or Plan participants.

ARTICLE V

CLAIMS PROCEDURES

Section 5.01. In General. If an Employee has any questions or concerns regarding his/her benefits under the Plan, the Employee should submit such questions/concerns via e-mail or in writing to the Committee. The Committee, or its delegate, will review the Employee's questions/concerns and will provide him/her with a written determination of the issues involved.

If a waiver is not approved, the Committee will notify the Employee in writing. Written appeals of the denial must be sent to the Committee. The decision of the Committee will be final and binding on all parties.

The Employer and the Committee shall be the only parties with discretion to:

- (a) Interpret benefits under the Plan;
- (b) Interpret the other terms, conditions, limitations and exclusions set out in the Plan;
- (c) Determine the eligibility, rights and status of all persons under the Plan;
- (d) Make factual determinations, finding and determining all facts related to the Plan and its benefits; and
- (e) Decide all disputes and questions arising under the Plan.

ARTICLE VI

GENERAL INFORMATION

Section 6.01. Funding. The Plan shall be unfunded and all costs of the Plan shall be paid from the Employer's general assets.

Section 6.02. FLSA Impact. For Employees who are covered by the Fair Labor Standards Act (the "FLSA"), time spent in educational courses which qualify for a waiver under the Plan is not considered hours worked if the Employee's participation is voluntary and the Employee performs no productive work for the Employer while attending such courses.

Section 6.03. Effect on Employment. Nothing in this Plan shall be construed as a contract of employment between the Employer and any of its Employees. Participation in this Plan shall not lessen or otherwise affect the responsibilities of any Employee of the Employer to perform fully his/her duties in a satisfactory manner, nor shall it affect the Employer's right to discipline, discharge or take any other action with respect to such an Employee. Participation in this Plan shall not constitute a guarantee of an Employee's advancement in earnings or job level.

Section 6.04. Governing Law. This Plan shall be governed by and construed in accordance with applicable federal laws and, to the extent not preempted, with the laws of the State of Colorado.

Section 6.05. No Guarantee of Tax Consequences. Notwithstanding any provision of this Plan to the contrary, neither the Employer nor the Committee makes any commitment or guarantee that any amounts paid to or for the benefit or coverage of an Employee under this Plan shall be excludable from the Employee's gross income for federal, state or local income tax purposes, or that any other particular federal, state or local tax treatment shall apply or become available to any Employee as a result of the operation of this Plan.

To the extent a Covered Expense is exempt from taxation under Section 127 of the Code and other provisions of the Code, the Plan will provide such benefit to an Employee on a tax-free basis; provided, however, that in no event shall such benefit exceed \$5,250 (or such other amount in effect under Section 127(a) of the Code) per calendar year. However, by accepting a benefit under this Plan, an Employee shall be deemed to have agreed to be liable for any tax that may be imposed with respect to those benefits, plus any interest or penalties that may be imposed in connection with the tax.

Section 6.06. Invalid Provisions. If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Plan shall be construed and enforced as if such provision had not been included.

Section 6.07. ERISA Exclusion. The Plan is intended to be an "unfunded scholarship plan" described in Section 2510.3-1(k) of the U.S. Department of Labor Regulations and, accordingly, is not an "employee welfare benefit plan" for purposes of Title I of the Employee Retirement Income Security Act of 1974, as amended.

This Plan is effective as of the date first written above.

Fort Lewis College



Name: Steve Schwartz

Title: VP for Finance & Administration