The Family and Medical Leave Act (FMLA) allows employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers and minimizes the potential for employment discrimination on the basis of gender, while promoting equal opportunity for men and women.

Eligibility

To be eligible for FML leave, an employee must have worked for the employer at least 12 months, must have worked at least 1,250 hours during the previous 12 months, and must work at a jobsite where at least 50 Elon employees are employed within a 75-mile radius.

1. Basic Leave Entitlement

An eligible employee may take up to 12 weeks of unpaid leave in a 12-month period for one or a combination of the following reasons:

- the birth and/or care of a newborn child of the employee (leave must be taken within 12 months of the child’s birth);
- the adoption of a child (leave must be taken within 12 months of the child’s placement);
- the placement of a foster child in your home (leave must be taken within 12 months of the child’s placement);
- to care for your spouse/qualifying partner, eligible child or parent with a serious health condition;
- a serious health condition that makes you unable to perform the essential functions of your position.

A serious health condition is defined as an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider for a condition that prevents the employee from performing the functions of the employee’s job. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.
2. Military Family Leave Entitlement

An eligible employee also may take FML leave as a result of having family members in the military for one or a combination of the following reasons:

- Qualifying exigencies. Eligible employees with a spouse/qualifying partner, child, or parent on covered active duty or recently called to covered active duty in the military which requires deployment to, or return from, a foreign country, may take up to 12 weeks of unpaid leave in a 12-month period to address certain qualified exigencies, including attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, providing care to a parent incapable of self-care, and attending post-deployment reintegration briefings.

- Covered service member leave. An eligible employee who is the spouse/qualifying partner, child, parent, or next of kin of a “covered service member” is entitled to a total of 26 weeks of unpaid leave in a 12-month period to care for the service member. A “covered service member” is a member of the Armed Forces, including the National Guard or Reserves, as well as certain qualifying veterans, who is undergoing medical treatment, therapy, or recuperation (or who is otherwise in outpatient service or on the temporary disability retired list) due to having incurred or aggravated an injury or illness in the line of duty. In order to take leave to care for a veteran, the veteran must have been discharged or released from the military under conditions other than dishonorable at any time during the five (5) year period prior to the first date that the eligible employee takes FML leave to care for the covered veteran.

For purposes of this type of leave, the 12-month period begins with the first day the employee takes covered service member leave. The 26 weeks of service member leave shall include any other type of FML leave referenced above, such that the total amount of FML leave to which an eligible employee is entitled during a single 12-month is 26 weeks.

With the exception of covered service member leave, the University measures the 12-month period for FML purposes on a rolling calendar basis. Therefore, any FML-qualifying leave taken in the 12-month period preceding the commencement of any requested leave will operate to reduce an employee’s entitlement to leave under FML.
Basic Regulation and Conditions of Leave

When a leave is requested to care for oneself or an eligible relative, a form must be completed (available in the Office of Human Resources) to support the request for leave. The University may require a second opinion and periodic re-certification. If the first and second opinions differ, the University may require a third opinion of a health care provider that is jointly selected by the employee and the University. If the employee takes a leave to attend to his/her own serious medical condition, the institution requires that the employee’s health care provider certify that the employee is able to return to work.

Genetic Information Nondiscrimination Act of 2008

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Intermittent Leave

Leave may be taken on an intermittent or on a reduced hours schedule if the employee, his/her spouse/qualifying partner, eligible child or parent has a serious health condition and it is medically necessary for the employee to do so. Leave may also be taken on an intermittent or on a reduced hours basis for reasons related to a qualifying exigency (as defined above) or to care for a covered service member. Employees must make reasonable efforts to schedule leave for planned medical treatments so as not to unduly disrupt the University’s operations. In certain circumstances, the University may require an employee on intermittent leave to transfer to an alternative position which better accommodates recurring periods of absence, or to a part-time schedule, provided that the position has equivalent pay and benefits. If FML leave is taken because of the birth or placement of a child, intermittent leave or a reduced leave schedule is not permitted unless approved by the University.

Spouses Working for the University

If both spouses are employed by the University, the combined leave for either birth, care and/or placement of a child, or to care for the employee’s parent with a serious health condition shall not exceed 12 weeks. The combined leave of spouses working for the University is limited to 26 weeks when leave is to care for an injured or ill service member, or such leave is taken in combination with leave for either birth, care and/or placement of a child, or to care for the employee’s parent.
Notification and Reporting Requirements

Whenever possible, employees must provide the Office of Human Resources with 30 days advance notice of the need for the leave of absence. When it is not possible to give 30 days notice for foreseeable leave, or if the leave is not foreseeable, notice should be given as soon as practicable and consistent with the University’s normal absenteeism reporting procedures. This allows the University time to develop a plan to work around an employee absence.

An employee requesting FML leave must provide the University with appropriate medical or other certification of the reason for the leave of absence in a timely manner. Failure to properly request leave or provide certification in a timely manner may result in a delay or denial of the leave.

The University will inform employees requesting leave whether they are eligible under FML. If they are, the University will specify any additional information required as well as the employees’ rights and responsibilities. If an employee is not eligible, the University will provide a reason for the employee’s ineligibility.

The University will inform employees if leave will be designated as FML-protected and the amount of leave counted against the employee’s leave entitlement. If the University determines that the leave is not FML-protected, the employee will be notified.

If employees are absent for an FML reason and the University does not learn the reason for the absence until the employee returns to work, (e.g., where the employee was absent for only a brief period), the University may, upon return to work, designate the leave as FML retroactively with appropriate notice to the employee. If the leave is taken for an FML reason and has not been so designated by the University but the employee desires that the leave be counted as FML leave, the employee must notify the University within two business days of returning to work that the leave was for an FML reason. In the absence of such timely notification, the employee may not subsequently assert FML protections for the absence.

Status of Employee Benefits during Leave of Absence

During FML leave, an employee with medical benefits coverage will remain entitled to such coverage. However, the employee is responsible for paying the premium contributions for group health insurance coverage if enrolled in the plan. Failure of an employee to pay his or her share of such premium in a timely fashion may result in a loss of coverage. If an employee does not return to work after the expiration of FML leave, the employee may be required to reimburse the University for any premiums paid on his or her behalf during the leave of absence.
Employees are required to use accrued sick leave and encouraged to use accrued vacation leave to assure salary continuation for as long as possible during approved leave. While on an approved paid family medical leave employees will continue to accrue vacation and sick leave. Neither vacation nor sick leave will be accrued during an unpaid approved family medical leave. Employees will be paid for any holiday that occurs while the employee is on FML.

Employees may not be employed by other employers or elsewhere while on leave from the University.

**Reinstatement**

Upon returning from an approved leave, an employee will be entitled to return to the same position held when the leave commenced or to an equivalent position with equivalent benefits, pay, duties, and other terms and conditions of employment at the University’s discretion. An employee who fails to return to work following FML leave may have employment terminated.

The University may deny job restoration if an employee fails to provide the appropriate certification from his/her physician.

**No Interference and No Retaliation**

The University will not interfere with, restrain, or deny the exercise of any right provided under FMLA. The University also will not discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for participating in any proceeding relating to FMLA.

**Administration and Interpretation**

The Office of Human Resources will administer the University’s FML policy.

The University retains the right to interpret or revise its FML policy at any time without prior notice.

The University shall, in its sole discretion, determine each employee’s eligibility and the regulations and conditions of all approved leaves.

All medical documents, including the medical certificates, shall be maintained in the employee’s separate confidential medical file. All other documents shall be maintained in the employee’s personnel file. The University will keep a record of all FML leave on its payroll records and designated as FML leave for every hour taken.
FML leave will run concurrently with all FML-qualifying leaves, including but not limited to workers’ compensation and short-term disability.

State Law and Other Policies

This policy does not pre-empt a state law that contains more generous provisions than the provisions set forth herein and the provisions of this policy shall coordinate with all applicable state laws and other University policies and may, in certain circumstances, supersede other University policies.

Employees with questions concerning the Family and Medical Leave Act should contact the Office of Human Resources. Forms for requesting leave under the Family and Medical Leave are available in the Office of Human Resources.

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