

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 FMLA leave, an employee must have worked for the employer at least 12 months and must have worked at least 1,250 hours during the previous 12 months.

#### 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 of and care for an infant child;
- the adoption of a child;
- the placement of a foster child in your home;
- 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 work.

A serious health condition is defined as an injury, impairment 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 FMLA 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 active duty or called to recent active duty in the military 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, 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 that renders the service member medically unable to perform military service. 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 FMLA leave referenced above, such that the total amount of FMLA 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 FMLA purposes on a rolling calendar basis. Therefore, any FMLA-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 the FMLA.

### **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.

### **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. 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 FMLA 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 FMLA 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 the FMLA. 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 FMLA-protected. If the University determines that the leave is not FMLA-protected, the employee will be notified.

If employees are absent for an FMLA 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 FMLA retroactively with appropriate notice to the employee. If the leave is taken for an FMLA reason and has not been so designated by the University but the employee desires that the leave be counted as FMLA leave, the employee must notify the University within two business days of returning to work that the leave was for an FMLA reason. In the absence of such timely notification, the employee may not subsequently assert FMLA protections for the absence.

**Status of Employee Benefits during Leave of Absence**

During FMLA 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 FMLA 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. Neither vacation nor sick leave is earned during leave approved under the Family and Medical Leave Act. Employees will be paid for any holiday that occurs while the employee is on FMLA.

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.

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 FMLA policy.

The University retains the right to interpret or revise its FMLA 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 FMLA leave on its payroll records and designated as FMLA for every hour taken.**

**FMLA leave will run concurrently with all FMLA 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 Act are available in the Office of Human Resources.**

**08/11**