

## **FAMILY AND MEDICAL LEAVE ACT (FMLA)**

### **A. Eligible Employees**

Employees of the University who have worked for the University for at least 12 months and have worked at least 1,250 hours during that time may request a Family Medical Leave to a total of 12 work weeks of leave during any 12-month period when leave is taken for one or more of the following circumstances.

- (1) The birth of a son or daughter of an employee and to care for the child;
- (2) The placement of a son or daughter with an employee for adoption or foster care;
- (3) To care for the spouse, son, daughter, or parent of an employee, if the family member has a serious health condition; or
- (4) The employee is unable to perform the functions of the position because of the employee's own serious health condition;
- (5) To care for a covered service member with a serious injury or illness;
- (6) A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves: (a) inpatient care, meaning an overnight stay at a hospital, hospice, or residential medical care facility; or (b) involves continuing treatment by a health care provider.

In the case of the birth or placement of a child for adoption or foster care, employees who wish to take leave must do so within 12 months of the date of the birth or placement of the child.

Where both spouses work for the University, their total leave in any 12-month period is limited to 12 weeks, if leave is taken (1) for the birth or adoption of a child; or (2) to care for a sick parent.

The "12-month period" during which Family Medical Leave may be taken, is the period beginning 12 months from the start date of the requested leave.

### **B. Intermittent or Reduced Schedule Leave**

When medically necessary, intermittent or reduced schedule leave can be taken in cases of a serious health condition, either an employee's own, to care for a parent, son, or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness. Intermittent or reduced leave schedule is not available for the birth or placement of a son or daughter.

Employees seeking intermittent or reduced schedule leave based on planned medical treatment are required to produce medical certification outlining the dates on which treatment is expected and the duration of the treatment. Employees are expected to make a reasonable effort, subject to the health care provider's approval, to schedule treatment so as to not unduly disrupt the University's operations. Employees are also required to give the University, through the Human Resources Office, thirty (30) days notice or as much notice as is practicable of their intentions.

In the event an employee requests intermittent or reduced schedule leave that is foreseeable and due to a family member's or the employee's own serious health condition, the employee may be transferred by the University to a temporary alternative job for which the employee is qualified and which better accommodates the University's needs and that of the employee.

### **C. Highlights of the 2009 Military Family Leave:**

1. Military Caregiver Leave: The first of these new military family leave entitlements, eligible employees who are family members of covered service members will be able to take up to 26 workweeks of leave in a “single 12-month period” to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. Eligible employees include the spouse, son, daughter, parent, or next of kin of a covered service member.
2. Qualifying Exigency Leave: The second new military leave entitlement provides eligible employees who are family members of any current member of the Armed Forces, including member of the National Guard or Reserves, or a member of the Armed Forces, National Guard, or Reserves who is on the temporary disability retired list up to 12 workweeks of leave during any 12 month period for one or more qualifying exigencies. Qualifying exigencies include such things as: (a) short-notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities not encompassed in the other categories but agreed to by the employer and employee.

### **D. Notice**

When leave is foreseeable, employees must follow the University's usual and customary call-in procedures for reporting an absence, absent unusual circumstances. Supervisors need to report these leaves to the Human Resources Office as soon as possible. The following is the current, expected notice:

A minimum of thirty (30) days advance notice of an employee's intent to take leave is required when it is foreseeable because of:

1. The expected birth of a baby;
2. The expected placement of a child for adoption or foster care;
3. Planned medical treatment for a son, daughter, spouse, or parent with a serious health condition; or
4. Planned medical treatment in case of the employee's own serious health condition;
5. Planned medical treatment for a serious injury or illness of a covered service member.

If leave has to begin in less than thirty (30) days as a result of one of the above-referenced circumstances, the employee still must provide the University, through the Human Resources Office, with as much advance notice as is practicable.

Such notice should be in writing, but may be given orally when circumstances so require. Employees are requested to confirm oral notice in writing. Notice must be provided in writing to the Human Resources Office of the University. When notice is not given in these circumstances, the employee will be considered to have taken “unauthorized leave” and subjected to appropriate disciplinary action.

Within five days of the time the University learns of the request for FMLA leave, it will provide the employee with an eligibility notice, which will inform the employee as to whether the general FMLA eligibility requirements have been met. Once the University has enough information to determine whether a particular leave qualifies for FMLA leave, the University will, within five business days, provide the employee with a designation notice, which will state that the FMLA leave has been granted and will identify the number of hours, days, or weeks that will count against the FMLA entitlement.

## **E. Certification**

When leave is requested based on a family member's or employee's own serious health condition, the employee must provide, in writing, a medical certification of the condition and the need for leave from the employee's health care provider within fifteen (15) days of the written request for leave. "Health care provider" includes physician's assistant. The certification must contain:

1. The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
2. The approximate date on which the serious health condition began;
3. A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave.
4. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability;
5. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member;
6. If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;
7. If an employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
8. If an employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member and an estimate of the frequency and duration of the required leave.

After an employee submits a complete and sufficient medical certification, the University may contact the employee's health care provider for purposes of clarification and authentication of the medical certification. Pursuant to HIPAA privacy rules, such contacts may only be initiated by a health care provider, human resources professional, leave administrator, or management official, but not by the employee's direct supervisor.

This certification will be treated as a confidential medical record and information will be disclosed only on a strictly need-to-know basis.

The University may, at its expense, require second and third medical opinions regarding a serious health condition.

## **F. Use of Paid Leave**

Paid leave can be elected as follows: 1) The University requires that available paid leave be used for all or a portion of FMLA leave; 2) Employees must advise the University of the purpose of any paid leave request so that an FMLA designation may be made in a timely fashion in the appropriate case.

## **G. Recertification**

An employee who has taken leave because of a serious health condition or that of a family member is required by the University to obtain subsequent written recertification of

the medical condition every thirty (30) days unless the original certification stated that the condition would last longer than thirty (30) days in which case the recertification is required at the time the stated duration has expired. The University also requires employees on leave under this provision to report periodically, in writing, every thirty (30) days on his or her status and the intention of the employee return to work.

#### **H. Restored Employment**

Eligible employees who comply with all provisions of this Policy and who return from FMLA leave have the right to return to the position that they held when they went on leave, or they may be placed, at the discretion of the University, in an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. While on leave, eligible employees will retain all eligible benefits. Restored employees, eligible employees returning from FMLA leave, are not entitled to accrue employment other than any to which they would have been entitled had they not taken the leave.

As a condition to restoring an employee whose leave was based on the employee's own serious health condition, each returning employee is required to provide, in writing, to the Human Resources Office a certification from the employee's health provider stating that the employee is able to perform the essential functions of the employee's job. Where reasonable job safety concerns exist, the University may also require a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave.

#### **I. Maintenance of Benefits**

The University will maintain group health plan coverage for employees on FMLA leave for the duration of the eligible employee's leave. Coverage will be provided on the same level and under the same conditions that coverage would have been provided if no leave had been taken.

In the event an employee fails to return to work after the period of leave expires, the University may recover any premiums the University paid for coverage during the leave period. Such recovery can be taken from any benefits or wages owed by the University to the employee.

In the event, however, that the employee fails to return to work due to the continuation, recurrence or onset of a serious health condition of a family member or that would otherwise entitle the employee to take leave, or due to other circumstances beyond the control of the employee, the University will not attempt to recover such premiums. In this circumstance, the employee is required to provide, in writing to the Human Resources Office, a certification from the employee's health care provider to that effect.