

## FAMILY AND MEDICAL LEAVE

*This policy shall serve to outline the conditions under which an eligible employee may request time off from work without pay, and upon return, be reinstated to a substantially similar position.*

*Employees with questions about this policy should consult with the Director of Human Resources.*

*Leave under this policy shall be referred to as "FMLA leave" in accordance with the provisions of the Family and Medical Leave Act. FMLA leave is unpaid except in the limited circumstances described below, and constitutes an approved absence available to eligible employees for up to 12 weeks duration in a given time period. In the event the employee and spouse are both employed by the university and both request leave for the birth or placement in adoption or foster care of a child or for the care of a sick parent, FMLA leave is limited to a total of 12 weeks (rather than 12 weeks each).*

### DEFINITIONS

1. Eligible Employee

*To be eligible for FMLA leave under this policy, an employee must have been employed by the university for at least twelve (12) months and must have worked at least 1250 hours during the twelve- (12) month period preceding the beginning of the leave. In determining eligibility for leave, a "rolling" twelve-month period is used, measuring backward from the date leave is requested. Certain university employees, defined solely for the purposes of this policy as "key employees," are not entitled to FMLA leave in a manner described in this policy. The university will notify those individuals who are key employees at the time a request for FMLA is made. Generally speaking, key employees are those salaried employees who are among the highest paid ten percent (10%) of university employees within seventy-five (75) surface miles and for whom keeping the job open during leave would result in grievous and substantial economic injury to the university. The university may deny job restoration following leave to key employees. Key employees, will, however, be offered the opportunity to return to work during leave and notified in the event job restoration is denied.*

2. Leave Criteria

*An eligible employee may take FMLA leave for one or more of the following reasons:*

- a. Birth of an employee's child;*
- b. Placement of a child for adoption or foster care with an employee;*
- c. When an employee is needed to care for a child, spouse, or parent who has a serious medical condition;*
- d. When an employee is unable to perform at least one of the essential functions of his or her position because of the employee's own serious health condition.*

3. Serious Medical Condition

*Means an illness, injury, impairment, or physical or mental condition that involves:*

- a. Any period of incapacity or treatment connected with inpatient care (i.e., overnight stay) in a hospital, hospice, or residential medical care facility.*

- b. *Any period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or*
- c. *Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.*

4. *Intermittent and Reduced-Leave Schedule*

*FMLA leave may be taken on an intermittent or reduced-leave schedule if it is medically necessary for a serious medical condition of the employee or his/her spouse, child, or parent. As such, FMLA leave may be taken in blocks of time or the employee's normal daily or weekly work schedule would be reduced. The university may require that employees temporarily transfer to a part-time schedule or an alternative position that better accommodates recurring absences. The alternative position may have equal pay and benefits and employees who are transferred to a part-time position may, in accordance with federal law, have a proportional adjustment of certain benefits.*

**PROCEDURES**

1. *Required Notice*

*If the necessity for the FMLA leave is foreseeable, an employee must provide the university with thirty (30) days' advance written notice of a request for a leave, but in any case notice is requested as soon as such notice is practicable (i.e., within one or two business days when the need for FMLA leave becomes known to the employee). Further, failure to provide the required notice may result in denial of FMLA leave until the employee gives proper and timely notice. If need for the FMLA leave is foreseeable, employees are requested to make an effort to schedule FMLA leave so that it does not unduly disrupt university operations.*

2. *Request for FMLA Leave*

*An employee requesting FMLA leave must complete a "Request for Family/Medical Leave" request form, available from the HR website. The request form must be completed in detail, signed by the employee, and submitted directly to the Human Resources Office. If practicable, the request form should be submitted thirty (30) days before the effective date of the FMLA leave. All requests for FMLA leave based on a serious health condition, whether it involves the employee or a family member, must include medical certification defined below. A medical certification form ("Certificate of Physician or Practitioner") is available from the HR Website and will be provided when a request for FMLA leave is made. In the event of an emergency (e.g., in the event the employee is incapacitated) a spokesperson such as a spouse, adult child, parent, or doctor may provide notice of the need for FMLA leave and complete the request form.*

*In addition, the request form must include the following information in cases where FMLA leave is due to serious medical condition:*

- a. *The reasons for the FMLA leave, including the appropriate medical facts the health care provider knows about the condition;*
- b. *The anticipated start date; and*

c. *The anticipated duration of the leave.*

### 3. Medical Certification

*Medical certification is required in those circumstances where an employee seeks FMLA leave for his/her serious medical condition or to care for a seriously ill child, spouse, or parent. Appropriate documentation may be requested to verify the reasons for the FMLA leave. An employee is required to have the university's medical certification form entitled "Certificate of Physician or Practitioner" completed by the employee's physician or health care provider. This certificate will be provided with the request form and additional copies may be obtained from the HR website. The completed certification may result in the denial of all FMLA leave and benefits under this policy including the denial of re-employment upon completion of the leave.*

*The certificate also requires information identifying or indicating:*

- a. *The date the condition commenced;*
- b. *The probable duration of the condition;*
- c. *The diagnosis of the condition;*
- d. *A brief description of the regimen of treatment; and*
- e. *Whether inpatient hospitalization is required.*

*In the case of an employee's own request for FMLA leave, the certificate must include a statement that the employee is unable to perform at least one of the essential functions of his/her position.*

*In the case of a request for FMLA leave to care for a seriously ill child, spouse, or parent, the certificate must include an amount of time the employee is needed to provide care.*

*In addition to stating the medical necessity for intermittent FMLA leave or FMLA leave taken on a reduced-leave schedule for planned medical treatment, the certificate must indicate the dates on which such treatment is expected to be given and the duration of the treatment.*

*In all cases of FMLA leave for a serious medical condition, the university reserves the right to request a second medical opinion at its expense. If the first and second opinions differ, the university may require the binding opinion of a third health care provider, jointly agreed upon by the employee and the university and paid for by the university.*

*Periodic re-certification also may be required for requested extensions of FMLA leave due to a serious health condition that exceeds thirty days, and in other appropriate circumstances.*

### 4. Confidentiality

*Health care or medical information will be maintained as confidential, and employees are urged to deal directly with their manager and the Director of Human Resources. In certain circumstances it may be necessary to divulge certain information concerning any work limitations/restrictions or required information for first aid or safety personnel. In any case, an employee's medical certification (certificate) and any additional medical information will be treated as a confidential medical record, which will be maintained separate from an employee's personnel file.*

5. Notification and Reporting Requirements

*Employees on FMLA leave due to a serious medical condition will be required to report periodically on their status and their intention (including dates) when they will return to work. Additionally, the university reserves the right to require a "Fitness for Duty Report" for those employees on FMLA leave due to their own serious medical condition, before the employee may resume his/her duties.*

6. Length of Leave and Substitution of Paid Leave

*Each employee may be granted an unpaid FMLA leave, including maternity leave, for a period of up to twelve (12) weeks (during any twelve-month period). When both the employee and spouse work for the university and request FMLA leave for the birth or placement in adoption or foster care of a child or for the care of a sick parent, FMLA leave is limited to a total of twelve (12) weeks of leave (rather than twelve weeks each) during any twelve-month period unless the FMLA period is necessitated by the serious health condition of the employee or his/her spouse or child. A "rolling" twelve-month period is used, measuring backward from the date leave is requested in determining eligibility for FMLA leave.*

*An employee requesting FMLA leave will be required to first apply any accrued or accumulated sick leave and annual leave toward such FMLA leave, as permitted under Federal law, and an employee will not be entitled to any additional FMLA leave, paid or unpaid, during a twelve-month period which is in excess of the FMLA leave granted under this policy.*

BENEFIT STATUS DURING LEAVE

1. Health Insurance

*An employee eligible for and participating in the Group Health Insurance benefit on FMLA leave will be retained on the university's group health plan on the same condition as if they were still working, except that the employee must make arrangement with the payroll department for timely payment of the employee's portion of the premium in order to continue such coverage, and if any premium payment is more than thirty days late, coverage will be lost during the applicable period of the FMLA leave. In circumstances where an employee is on paid FMLA leave by virtue of the substitution of any accrued or accumulated annual leave, the proportionate share of premium deductions will continue to be made from the employee's regular paycheck as if the employee remained at work. Payroll will provide a schedule of the payment amounts and due dates at the beginning of the unpaid FMLA leave of absence. Employees should consult with the Human Resources Office, Payroll, or designee regarding the continuation of certain other benefits during the period of FMLA and their cost associated with continuing the same. However, FMLA leave will be treated as continuous service for the purposes of the university's retirement plan.*

2. Recovery of Premiums

*In the event that an employee chooses not to or fails to return from an approved FMLA leave, the employee will be liable for the premiums paid by the employer to maintain insurance coverage unless:*

- a. The employee's failure to return to work stems from the continuation, recurrence, or onset of a serious health condition of the employee or a family member; or*

- b. *The failure to return stems from circumstances beyond the control of the employee.*

3. *Return from Leave*

*An employee (except for key employees as described above) returning from FMLA leave will be reinstated to the same or an equivalent position upon his or her return to work date, except that the employee will not be entitled to any employment rights or benefits greater than those he or she would have had there been no FMLA leave. In dealing with FMLA leaves involving a serious health condition of an employee, medical certification in the form of a Fitness for Duty Report may be required verifying an employee's ability to return to work.*

4. *Reduced-Work Schedule/Intermittent Leave*

*In the case of FMLA reduced-work schedule or intermittent leave for a serious health condition of the employee or a family member, an employee is required to make reasonable effort to schedule the treatment so as not to unduly disrupt university operations, and the university reserves the right to request rescheduling of such treatment in appropriate circumstances. Further, where a reduced-work schedule or intermittent FMLA leave is foreseeable based on planned medical treatment, the university reserves the right to temporarily transfer the employee to a comparable position that better accommodates the employee's recurring periods of leave.*

*In other cases in which an employee is eligible for FMLA reduced-work schedule leave or intermittent leave, for the birth, adoption, or placement of a child, the university will review the individual circumstances involved, taking into account the employee's length of service, number of requests, duties, workload, and employee's job performance.*

***EMPLOYEES WITH QUESTIONS ABOUT THIS POLICY SHOULD CONSULT THE HUMAN RESOURCES OFFICE.***