

## Procedures for Administering Family and Medical Leave

The procedures are based on the provisions of the federal Family and Medical Leave Act (FMLA). The function of the procedures is to provide a general description of the provisions of the Family and Medical Leave Act. In the event of any conflict between the procedures and the applicable law, employees will be afforded all rights required by law.

For individuals working outside of Maryland, consult the divisional Human Resources Office.

### I. Introduction

- A. Eligible employees can take job-protected leave for up to a total of 12 workweeks in a 'rolling' 12-month period defined as 12-month period measured backward from the date the employee uses Family and Medical Leave because of:
  1. The birth of a child and to care for the newborn child during the first year following birth.
  2. The placement of a child with the employee for adoption or foster care.
  3. The employee's need to care for a family member (child, spouse, same sex domestic partner, or parent) with a serious health condition.
  4. The employee's own serious health condition makes the employee unable to perform the functions of the employee's job.
  5. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, same sex domestic partner 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.
- B. Eligible employees may take job-protected leave for up to a total of 26 workweeks in a "single 12-month period" to care for a covered servicemember with a serious injury or illness.
- C. For purposes of confirming the family relationship, the employee may be required to provide reasonable documentation or statement of the family relationship.
- D. An employee is required to comply with department procedures related to reporting an absence.

## E. Period of Leave

Depending upon the reason for the leave and conditions, an eligible employee may be entitled to a maximum of 12 weeks of leave, including paid and unpaid leave, during a 'rolling' 12 months period, i.e., looking backward from the date the employee uses Family and Medical Leave or 26 weeks, including paid and unpaid leave, during a single 12-month period to care for a covered servicemember with a serious injury or illness. If the employee has exhausted appropriate leave with pay or is not eligible for leave with pay, the leave is without pay.

## II. Eligibility

- A. An employee is eligible for Family and Medical Leave if employed for at least 12 months and has worked 1,250 hours during the 12-month period immediately preceding the commencement of the leave. Exempt salaried employees who have worked for 12 months prior to the leave are presumed to meet the hours worked test.
- B. The 12 months an employee must have been employed need not be consecutive. Generally, employment periods prior to a break in service of seven years or more need not be counted. Employment periods preceding a break in service of more than seven years must be counted if the break in service was due to the fulfillment of National Guard or Reserve military service obligation.

## III. Definitions

- A. Serious health condition – an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider:
  - 1. Inpatient care – overnight stay in a hospital, hospice, or residential medical care facility
  - 2. Continuing treatment – care by a health care provider that includes one or more of the following:
    - a. Incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity that involves treatment two or more times within 30 days of the first day of incapacity or treatment by a health care provider on at least one occasion that results in continuing treatment under the supervision of the health care provider. The first treatment must be in-person with a health care provider and take place within seven days of the first day of incapacity.
    - b. Any period of incapacity due to pregnancy or for prenatal care

- c. Any period of incapacity or treatment due to a chronic serious health condition that
    - (1) Requires periodic visits (at least twice a year) for treatment by a health care provider;
    - (2) Continues over an extended period of time; and
    - (3) May cause episodic periods of incapacity (e.g. asthma, diabetes, epilepsy, etc.)
  - d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, or the terminal stages of a disease).
  - e. Any period of absence to receive multiple treatments by a health care provider for
    - (1) Restorative surgery after an accident or injury; or
    - (2) A condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy) or kidney disease (dialysis).
- B. Incapacity – inability to work or perform other regular daily activities due to the serious health condition
- C. Treatment – includes examinations to determine if a serious health condition exists and evaluations of the condition. It does not include routine examinations.
- D. Spouse: husband or wife
- E. Same sex domestic partner: two non-related adults of the same sex, both of whom are at least 18 years of age, are committed as a family in a long-term relationship of indefinite duration and are socially, emotionally, and financially interdependent in an exclusive mutual commitment in which they agree to be responsible for each other's common welfare and share financial obligations. The Family and Medical Leave Policy is intended to cover same sex partner relationships, and not persons who are cohabitating simply as roommates.
- F. Parent: a biological adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee. This term does not include parents "in law."
- G. Son or daughter: biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18 or age 18 or older and incapable of self-care because of a mental or physical disability.

1. Incapable of self care: the individual requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily-living.”
2. Physical or mental disability: a physical or mental impairment that substantially limits one or more of the major life activities.
3. In Loco Parentis

The FMLA regulations define in loco parentis as including those with day-to-day responsibilities to care for and financially support a child. Employees who have no biological or legal relationship with a child may nonetheless stand in loco parentis to the child and be entitled to FMLA leave. It is the Department of Labor Administrator’s interpretation that the regulations do not require an employee who intends to assume the responsibilities of a parent to establish that he or she provides both day-to-day care and financial support in order to be found to stand in loco parentis to a child. For example, where an employee provides day-to-day care for his or her unmarried partner’s child (with whom there is no legal or biological relationship) but does not financially support the child, the employee could be considered to stand in loco parentis to the child and therefore be entitled to FMLA leave to care for the child if the child had a serious health condition. The same principles apply to leave for the birth of a child and to bond with a child within the first 12 months following birth or placement. For instance, an employee who will share equally in the raising of a child with the child’s biological parent would be entitled to leave for the child’s birth because he or she will stand in loco parentis to the child. Similarly, an employee who will share equally in the raising of an adopted child with a same sex partner, but who does not have a legal relationship with the child, would be entitled to leave to bond with the child following placement, or to care for the child if the child had a serious health condition, because the employee stands in loco parentis to the child.

It should be noted that the fact that a child has a biological parent in the home, or has both a mother and a father, does not prevent a finding that the child is the “son or daughter” of an employee who lacks a biological or legal relationship with the child for purposes of taking FMLA leave. Neither the statute nor the regulations restrict the number of parents a child may have under the FMLA. For example, where a child’s biological parents divorce, and each parent remarries, the child will be the “son or daughter” of both the biological parents and the stepparents and all four adults would have equal rights to take FMLA leave to care for the child. Where an employer has questions about whether an employee’s relationship to a child is covered under FMLA, the employer may require the employee to provide reasonable documentation or statement of the family relationship. A simple statement asserting that the requisite family relationship exists is all that is needed in situations such as in loco parentis where there is no legal or biological relationship.

Examples of situations in which an in loco parentis relationship may be found include where a grandparent takes in a grandchild and assumes ongoing responsibility for raising the child because the parents are incapable of providing care, or where an aunt assumes responsibility for raising a child after the death of the child's parents. Such situations may, or may not, ultimately lead to a legal relationship with the child (adoption or legal ward), but no such relationship is required to find in loco parentis status. In contrast, an employee who cares for a child while the child's parents are on vacation would not be considered to be in loco parentis to the child.

- H. Health Care Provider: A doctor of medicine or osteopathy authorized to practice medicine or surgery and others determined by the Secretary of Labor. Contact divisional Human Resources Office for additional information.
- I. Family and Medical Leave 12-month period: A 'rolling' 12-month period measured backward from the date an employee uses leave under the Family and Medical Leave Act.

IV. Family and Medical Leave for pregnancy or birth of a child and to care for the newborn during the first year following birth.

- A. Both the birth mother and the father/same sex domestic partner are entitled to FMLA leave for the birth of their child.
- B. Both the birth mother and the father/same sex domestic partner are entitled to FMLA leave to be with the healthy newborn child during the 12-month period beginning on the date of birth.
- C. The birth mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child.
- D. The birth mother who is eligible for paid leave benefits must charge absence to sick leave so long as the health care provider certifies that the birth mother is incapacitated and to the extent that sick leave is accrued.

Upon the health care provider's release to return to work or the exhaustion of accrued sick leave, whichever occurs first, the birth mother must charge the absence to accrued vacation leave.

When paid leave is no longer available, the birth mother must charge the absence to leave without pay.

The birth mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health care provider during the absence and even if the absence does not last for more than three consecutive calendar days, example – severe morning sickness.

- E. The husband/same sex domestic partner is entitled to FMLA leave if needed to care for the birth mother who is incapacitated or if needed to care for her during her prenatal care, or if needed to care for her following the birth of a child if she has a serious health condition.

The husband/ same sex domestic partner who is eligible for paid leave benefits must charge the absence to designated accrued sick leave so long as the health care provider certifies that the birth mother is incapacitated.

- F. First Year of Care (Bonding)

1. When leave is for the first year of care, both parents must charge leave to accrued vacation leave. If additional leave is desired and vacation leave is exhausted, they are eligible for a leave of absence without pay. If a son or daughter has a serious health condition, see item VI.
2. If both parents are employed by the University, their aggregate leave is limited to 12 weeks. If the son or daughter has a serious health condition, see item VI.

- G. An eligible employee may use intermittent or reduced schedule leave (see item X) after the birth to be with a healthy newborn child only if approved. If intermittent or reduced schedule leave is approved, the employee may be transferred temporarily to an available alternative position. If the child or birth mother has a serious health condition, see item VI.

- H. Certification

An employee must provide written certification of a serious health condition. The certification should be provided not later than the time the leave begins and must be provided within 15 days after the medical certification is requested. Subsequent recertification may be required at 30-day intervals, or if the reason for or duration of the leave changes. See item XIV.

The certification is required when

1. The birth mother is a University employee eligible for Family and Medical Leave and is absent due to her own serious health condition.
2. The husband/same sex domestic partner is a University employee eligible for Family and Medical Leave and the birth mother has a serious health condition.

3. The birth mother and/or birth father/same sex domestic partner are University employees eligible for Family and Medical Leave and the absence is due to the newborn's serious health condition.

The certification will be filed separately from personnel records.

- I. Notice: The employee must provide at least 30 days' advance notice before the date on which the leave is to begin. If the employee is unable to provide at least 30 days' notice, the employee must provide such notice as is practicable.

An employee is to provide sufficient information for the University to determine whether FMLA may apply to the leave request.

Notice can be given by someone other than the employee if the employee is unable to do so personally.

- J. Documentation (See item XIV for more information)

1. The following documents are to be sent to the employee within five business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA-qualifying reason:

- a) Birth mother

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification of Health Care Provider for Employee's Serious Health Condition](#)

NOTE: It is important that the employee's essential job functions be described. (See Section I of the form.)

Employee should be advised where to return the Certification.

- b) Husband/same sex domestic partner to care for serious health condition of the birth mother or newborn child, or birth father/same sex domestic partner to care for newborn with a serious health condition

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification of Health Care Provider for Family Member's Serious Health Condition](#)

NOTE: Employee should be advised where to return the Certification.

c) Birth mother, husband or birth father, or same sex domestic partner to bond with newborn during first year

- [Notice of Eligibility and Rights & Responsibilities](#)

The employee should request in writing leave to bond with a newborn.

## V. Family and Medical Leave for Adoption or Foster Care

- A. Employees may take FMLA leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. Example – counseling sessions, court appearance, consult with an attorney, etc.
- B. An employee eligible for paid leave must charge the absence to accrued vacation leave. When accrued vacation leave is exhausted, the absence is charged to leave without pay.
- C. Leave may be taken only within 12 months of the placement.
- D. If husband and wife or both same sex domestic partners are employed by the University, their aggregate leave is limited to 12 weeks. If the parents cannot agree on the leave taken by each, the University will base the decision on the reason for the request, length of service of the employees and impact on University operations.
- E. Leave taken intermittently or a reduced leave schedule is available only upon the prior, written agreement of the employee and the supervisor. See item X.
- F. Notice: The employee must provide at least 30 days' advance notice before the date on which the leave is to begin. If the employee is unable to provide 30 days' notice, the employee must provide such notice as is practicable.

An employee shall provide sufficient information for the University to determine whether FMLA may apply to the leave request.

Notice can be given by someone other than the employee if the employee is unable to do so personally.

## G. Documentation (See item XIV for more information)

- (1) The following document is to be sent to the employee with five business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA – qualifying reason.

- [Notice of Eligibility and Rights & Responsibilities](#)

(2) The employee must provide written evidence of the placement. In the case of foster care, documentation of state action is required.

## VI. Family and Medical Leave to care for a family member (child, spouse, same sex domestic partner, or parent)

### A. Definitions

Needed to care for – includes both physical and psychological care.

1. To provide basic medical, hygienic or nutritional needs, safety or transportation to the doctor.
2. To provide psychological comfort and reassurance to a family member who is receiving inpatient or home care.
3. To substitute for others who normally care for the family member.

### B. Leave

A staff member who must be absent due to the illness or injury of an immediate family member can charge the absence to accrued leave (sick, vacation or floating holiday). If paid leave is exhausted, absence is without pay.

- C. If the leave is requested because of the illness of a child or of the other spouse/ same sex domestic partner, each employee is entitled to 12 weeks of leave. If both spouses or both same sex domestic partners are employed by the University and the leave is to care for a sick parent, their aggregate leave is limited to 12 weeks. If the employees cannot agree on the leave taken by each, the University will base the decision on the reason for the request, length of service of the staff member and impact on University operations.
- D. Both mother and father/same sex domestic partner are entitled to 12 weeks of FMLA leave if needed to care for a child with a serious health condition.
- E. The University can require documentation to confirm the family relationship or same sex domestic partnership.
- F. Leave may be taken intermittently or on a reduced schedule, see item X.
- G. Notice: If the leave is foreseeable based on planned medical treatment, the employee is required to make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the University. The employee is required

to provide at least 30 days' advance notice, or if the treatment is to occur in less than 30 days, the employee must provide such notice as is practicable.

An employee shall provide sufficient information for the University to determine whether FMLA may apply to the leave request.

Notice can be given by someone other than the employee if the employee is unable to do so personally.

- H. Certification: An employee must provide written certification of a serious health condition of a family member. The certification should be provided no later than the time of leave begins and must be provided within 15 days of the request for medical certification. Subsequent recertification may be required at 30-day intervals, or if the reason for or duration of the leave changes. See item XIV.

The certification will be filed separately from personnel records.

- I. Documentation (See item XIV for more information)

The following documents are to be sent to the employee within five (5) business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA – qualifying reason.

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification of Health Care Provider for Family Member's Serious Health Condition](#)

NOTE: Employee should be advised where to return the Certification.

- J. Medical opinions: The University may, at its own expense require a second medical opinion by a health care provider designated by the University.

In the event of conflicting opinions, the University may pay for a third and final provider to offer a binding decision.

## VII. Family and Medical Leave for the employee's own serious health condition

- A. If the employee is eligible for leave with pay, an absence due to the employee's serious health condition must be charged to accrued sick leave. When accrued sick leave is exhausted, the leave must be charged to accrued vacation. If additional leave is necessary and vacation leave is exhausted, the absence will be leave without pay.
- B. Leave may be taken intermittently or on a reduced schedule, see item X.

- C. Notice: If the leave is foreseeable based on planned medical treatment, employees are required to make a reasonable effort to schedule the treatment so as not to disrupt unduly the operation of the University. The employee is required to provide at least 30 days' advanced notice, or if the treatment is to occur in less than 30 days, the employee must provide such notice as is practicable.

An employee shall provide sufficient information for the University to determine whether FMLA may apply to the leave request. Calling in "sick" without providing more information will not be considered sufficient notice.

Notice may be given by someone other than the employee if the employee is unable to do so personally.

- D. Certification: An employee must provide written certification of a serious health condition. The certification should be provided not later than the time the leave begins and must be provided within 15 days after the medical certification is requested. Subsequent recertification may be required at 30-day intervals, or if the reason for or duration of the leave changes. See item XIV.

The certification will be filed separately from personnel records.

- E. Documentation (See item XIV for more information)

The following documents are to be sent to the employee within five (5) business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA – qualifying reason

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification of Health Care Provider for Employee's Serious Health Condition](#)

NOTE: It is important that the employee's essential job functions be described (See Section I of the form.)

Employee should be advised where to return the Certification.

- F. Medical opinions: The University may, at its own expense, require a second medical opinion by a health care provider designated by the University.

In the event of conflicting opinions, the University may pay for a third and final provider to offer a binding decision.

## VIII. Family and Medical Leave for qualifying exigency

- A. Definitions

1. Covered military member – the employee’s spouse, same sex domestic partner, son, daughter or parent on active duty or call to active duty status in support of a contingency operation and who is a member of the National Guard or the Reserves.

An employee whose family member is on active duty or call to active duty status in support of a contingency operation as a member of the Regular Armed Forces is not eligible to take leave because of a qualifying exigency.

2. Active duty or call to active duty status – duty under a call or order to active duty or notification of an impending call or order to active duty in support of a contingency operation or any provision of law during a war or during a national emergency declared by the President or Congress.

State calls to active duty are not covered unless under order of the President of the United States.

3. Contingency operation – the active duty orders will generally specify if the service member is serving in support of a contingency operation by citation to the U.S. Code and/or by reference to the specific name of the contingency operation.

B. The University can require documentation to confirm the family relationship or same sex domestic partnership.

C. Eligible employees may take FMLA leave while the employee’s spouse, son, daughter, same sex domestic partner, or parent is on active duty or call to active duty for one or more of the following reasons:

1. Short notice deployment

To address any issue that arises from the fact that a covered military member is notified of an impending call or order to active duty in support of a contingency operation seven or less calendar days prior to the date of deployment.

Leave can be used for seven calendar days beginning with the date the military member is notified.

2. Military events and related activities

To attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty.

To attend family support or assistance programs and informational briefings sponsored or promoted by the military and related to the active duty or call to active duty.

3. Childcare and school activities

To arrange for alternative childcare when the active duty or call to active duty status of a covered military member necessitates a change in the existing childcare arrangements.

To provide childcare on an urgent, immediate need basis when the need arises from the active duty or call to active duty.

To enroll in or transfer to a new school or day care facility necessitated by the active duty or call to active duty.

To attend meetings with staff at a school or a daycare facility when the meetings are necessary due to circumstances arising from the active duty or call to active duty.

4. Financial and legal arrangements

To make or update financial or legal arrangements.

To act as the covered military member's representative before an agency regarding service benefits while the covered military member is on active duty or call to active duty and for a period of 90 days following the termination of the covered military member's active duty.

5. Counseling

6. Rest and recuperation

Eligible employees may take up to five days of leave for each instance.

7. Post-deployment activities

To attend arrival ceremonies, reintegration briefings and events and any official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status.

To address issues that arise from the death of a covered military member while on active duty status.

8. Additional activities

To address other events that arise out of the covered military member's active duty or call to active duty provided that the supervisor agrees the leave qualifies as an exigency and agrees to both the timing and duration of the leave.

- D. An employee who is eligible for paid leave must charge the absence to accrued vacation leave. When vacation leave is exhausted, the absence is without pay.
- E. Leave taken intermittently or a reduced leave schedule, see item X.
- F. Documentation (See item XIV for more information)

The following documents are to be sent to the employee within five (5) business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA – qualifying reason

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification of Qualifying Exigency For Military Family Leave](#)

NOTE: Employee should be advised where to return the Certification.

- G. Notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable.

## IX. Family and Medical Leave to care for a covered service member with a serious injury or illness.

### A. Introduction

1. Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including National Guard, Reserves, or on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation or therapy.

Leave is not available to care for former members of the Armed Forces, National Guard, Reserves, and members on the permanent disability retired list.

2. An eligible employee is entitled to 26 weeks of leave to care for a covered service member with a serious injury or illness during a single 12-month period.

The 12-month period begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after

that date. If an eligible employee does not take all of the 26 workweeks of leave during this single 12-month period, the remaining part of the 26 workweeks to care for the service member is forfeited.

3. The 26 workweeks leave applies to a per-covered-service member, per-injury basis. Therefore, an eligible employee may be entitled to take more than one period of leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious illness or injury.

No more than 26 workweeks of leave may be taken within any single 12-month period.

4. An eligible employee is entitled to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the single 12-month period.

#### B. Definitions

1. Serious injury or illness is one incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.
2. Outpatient status – the service member is assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of service members receiving medical care as outpatients.

#### C. Eligibility

1. To be eligible for FMLA to care for service member, the employee must be the spouse, same sex domestic partner, son, daughter, parent or next of kin of the covered service member.
  - a. A son of daughter – the service member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the service member stood in loco parentis and who is of any age.
  - b. A parent – a covered service member’s biological, adoptive, step or foster parent, or any individual who stood in loco parentis. This term does not include parents in law.
  - c. Next of kin – is the nearest blood relative, other than the covered service member’s spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles and first cousins unless the service member

has designated in writing another blood relative as the nearest for purposes of military caregiver leave under FMLA.

Confirmation of the family relationship may be required.

- d. Same sex domestic partner: two non-related adults of the same sex, both of whom are at least 18 years of age, are committed as a family in a long-term relationship of indefinite duration and are socially, emotionally, and financially interdependent in an exclusive mutual commitment in which they agree to be responsible for each other's common welfare and share financial obligations. The Family and Medical Leave Policy is intended to cover same sex partner relationships, and not persons who are cohabitating simply as roommates.
2. The University can require documentation to confirm the family relationship or same sex domestic partnership.

#### D. Leave

A staff member who must be absent to care for a covered service member can charge the absence to accrued leave (sick, vacation or floating holiday). If paid leave is exhausted, the absence is without pay.

- E. Leave may be taken intermittently or on a reduced schedule, see item X.
- F. Notice: If the leave is foreseeable based on planned medical treatment, the employee is required to make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the University. The employee is required to provide at least 30 days' advance notice, or if the treatment is to occur in less than 30 days, the employee must provide such notice as is practicable.

An employee shall provide sufficient information for the University to determine whether FMLA may apply to the leave request.

Notice can be given by someone other than the employee if the employee is unable to do so personally.

- G. Certification: An employee must provide medical certification. The certification should be provided no later than the time the leave begins and must be provided within 15 days of the request for medical certification. See item XIV.

The certification will be filed separately from personnel records.

- H. Documentation (See item XIV for more information)

The following documents are to be sent to the employee within five (5) business days of the employee requesting FMLA or knowledge that the employee's leave may be for a FMLA – qualifying reason

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave](#)

NOTE: Employee should be advised where to return the Certification.

## X. Intermittent leave or reduced leave schedule

### A. Definition

1. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason.
  2. Reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek or workday.
- B. For intermittent leave or reduced leave schedule because of one's own serious health condition, to care for a family member with a serious health condition, or to care for a covered service member with a serious injury or illness, there must be a medical need for leave and it must be that the need is best accommodated through an intermittent or reduced leave schedule.
- C. When leave is taken after the birth of a healthy child or placement for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the supervisor agrees.
- D. Leave due to a qualifying exigency may be taken on an intermittent or reduced leave schedule.
- E. If an employee needs intermittent or reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the unit's operations.
- F. Regardless of whether intermittent or reduced leave schedule is required or approved, the employee may be transferred temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.

The alternative position must have equivalent pay and benefits.

When the employee is able to return to full-time work, the employee must be placed in the same or equivalent job as that held when the leave commenced.

## XI. Concurrent Leaves

- A. If an employee applies for long-term disability benefits for an illness or injury that also meets the criteria for a serious health condition, the waiting period absence will run concurrently with the Family and Medical Leave.
- B. If an employee is absent for job related illness or injury for which he/she is eligible to receive workers' compensation benefits and the illness or injury also meets the criteria for a serious health condition, the absence for job related illness or injury will run concurrently with Family and Medical Leave.

However, employees may not be required to use accrued sick and vacation leave during periods of workers' compensation absence.

## XII. Benefits

### A. General

- a. Employees will not lose previously accrued benefits.
- b. In the event the employee is approved for an intermittent or reduced schedule, benefits eligibility will be based upon original status at the time the new schedule is initiated, except for leave that will be accrued on a pro rata basis.

### B. Leave

- a. Sick leave and vacation do not accrue for employees during a leave of absence without pay that exceeds 11 working days during a calendar month.
- b. Employees on a leave of absence without pay are not paid for holidays that occur during the leave.

### C. Health Benefits

Health benefits continue through the employee's leave. In the event the employee is in a leave without pay status, health benefits will be continued but the employee will be required to pay the employee's portion of the premiums. If the employee does not return to work following the leave, he/she may be required to reimburse the University for premiums paid during the leave.

An employee who is receiving payments as a result of a workers' compensation injury must make arrangements for payment of group health plan benefits.

### D. Tuition grant/tuition remission

If otherwise eligible for tuition grant and/or tuition remission, the employee can participate in these programs.

### XIII. Return to Work

- A. In general, an employee who completes a period of FMLA leave is to be returned either to the same position or to a position equivalent in pay, benefits and conditions of employment.
- B. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.
- C. If the leave was required due to a health condition of the employee, a written release stating the employee is fit to return to duty from the health care provider is required.
- D. When practicable, the employee is requested to contact the supervisor at least two weeks prior to the expiration of the leave to indicate intent to return to work. The employee must provide a minimum of two days' notice of intent to return to work.

### XIV. Notice Requirements

#### A. Eligibility Notice

When an employee requests FMLA leave or when the University has knowledge that an employee's leave may be for a FMLA qualifying reason, the employee must be notified of eligibility for FMLA leave within five business days absent extenuating circumstances.

Department of Labor Form [“Notice of Eligibility and Rights & Responsibilities”](#) can be used. If this form is not used, the written communication must provide the same information.

#### B. Determination notice

- 1. Upon receipt of enough information to determine whether the leave is for a FMLA – qualifying reason, the University must notify the employee whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances.

Department of Labor Form [“Designation Notice”](#) can be used.

- 2. If the University does not have sufficient information regarding the reason for the leave, the employee will be contacted.

### 3. Retroactive designation

FMLA leave may be retroactive provided the designation does not cause harm or injury to the employee.

## C. Certification

### 1. The University requires certification to support the FMLA leave.

The request for certification must be in writing and within five business days of the employee's request for leave or within five business days after the leave commences.

The employee must provide the requested certification to the employer within 15 calendar days after the employer's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

### 2. The employee must provide a complete and sufficient certification. The employee will be advised in writing, if the certification is incomplete or insufficient. The notice to the employee must state the information needed.

The employee has seven calendar days to provide the information.

### 3. Forms

#### a. Leave for the serious health condition of a family member

Department of Labor Form ["Certification of Health Care Provider for Family Member's Serious Health Condition"](#) is to be used.

#### b. Leave for the employee's serious health condition

Department of Labor Form ["Certification of Health Care Provider for Employee's Serious Health Condition"](#) is to be used.

A sufficient medical certification must specify what functions of the employee's position the employee is unable to perform so that it can be determined whether the employee is unable to perform one or more essential functions of the position.

#### c. Leave for a qualifying exigency

1. The employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates the duty is in support of a contingency operation.

2. Certification Form

Department of Labor Form [“Certification of Qualifying Exigency for Military Family Leave”](#) is to be used.

d. Leave to care for a covered service member

1. Department of Labor Form [“Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave”](#) is to be used.
2. “Invitational travel orders” or “invitational travel authorizations” issued to a family member to join an injured or ill service member is sufficient certification.

XV. Authentication and clarification of medical certification

- A. Clarification of medical certification can only be requested when the leave is for the employee’s own serious health condition or is to care for a family member with a serious health condition.
- B. The University can contact the health care provider for purposes of clarification and authentication of the medical certification after the employee has been given the opportunity to cure any deficiencies.

If clarification or authentication is needed, it will be done by the Occupational Health Services staff.

- C. The University may, at its own expense, require a medical opinion by a health care provider designated by the University.

XVI. Notes

1. The University will administer Family and Medical Leave in accordance with federal regulations.
2. Family and Medical Leave Forms and/or guidance are available in the divisional Human Resources Office.
3. A request for a leave of absence by an employee` not eligible for leave under this policy may be made in accordance with Section 17 of the Personnel Policy Manual.
4. Staff and administrators are encouraged to contact their divisional Human Resources Offices regarding qualification, eligibility, entitlement to leave, maintenance of health benefits, job restoration, notice and medical

certification, fitness to return to duty, intermittent leave, and application of this policy.

February 16, 2012