

## **UNPAID LEAVES**

### **FAMILY/MEDICAL LEAVE POLICY**

#### **Basic Leave Entitlement**

University policy in compliance with the Federal Family and Medical Leave Act (FMLA) provides eligible employees up to 12 workweeks of unpaid, job-protected leave for the following reasons.

- For incapacity because of pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, child\*, or parent\*\*, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

\*Child shall mean a biological, adopted or foster child, a stepchild, or a legal ward, or other child for whom the employee has responsibility to provide day-to-day care and financial support.

\*\*Parent shall mean a biological parent or other individual who had day-to-day responsibility to care for and financially support the employee when the employee was a child, or a person bearing the same relationship to the employee's spouse.

#### **Military Family Leave Entitlements**

Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings.

FMLA also includes a special level entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

#### **Benefits and Protections**

During approved FMLA leave, the University will maintain the employee's health coverage on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of approved FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

#### **Eligibility Requirements**

All regular Academic/Administrative, Managerial/Professional and Office/Service employees with an FTE of .50 or greater, who have worked for at least 1250 hours during the year preceding the start of the requested leave, are eligible for family/medical leaves of absence according to the provisions noted below. Other employees (including graduate students and temporary employees) are also eligible when they meet the requirement of working at least 1250 hours during the last year.

#### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 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.

### **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the University's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

### **Substitution of Paid Leave for Unpaid Leave**

As may be required or approved by the University, certain kinds of paid leave may be substituted for unpaid leave, if such paid leave would otherwise be granted based on the reason for the absence.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the University to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Employer Responsibilities**

The University will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the University will provide a reason for the ineligibility.

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

### **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### **Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.