

UNIVERSITY OF ILLINOIS

FAMILY AND MEDICAL LEAVE POLICY
Effective February 14, 2003, and April 15, 2003
Revised March 11, 2009

General Policy Statement

In accordance with the Family and Medical Leave Act of 1993, **and as amended in 2009**, Family and Medical Leave shall be granted to an employee for the birth or adoption of a child; for the care of a ~~child~~ **son, daughter**, spouse, or parent who has a serious health condition; when unable to perform the function of his or her position due to a serious health condition; **for the care of a son, daughter, spouse, parent or next of kin who is a covered service member with a serious injury or illness incurred: (a) in the line of duty on active duty; and (b) that may render the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating; and because of a qualifying exigency arising out of the fact that a son, daughter, spouse, or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.**

Employees who have been employed by the University for at least 12 months and who have performed at least 1,250 hours of service during the previous 12-month period, are eligible for up to 12 workweeks **(up to 26 workweeks to care for a covered service member)** of ~~paid and/or~~ unpaid family and medical leave during each consecutive 12-month period for which eligibility criteria have been met. **Separate stints of employment will be counted when determining the 12 months of service, provided that a break in service does not exceed seven years. For breaks in service that are seven years or longer, service time will be counted if one of the following applies: break in service due to National Guard or Reserve military service obligation; or written agreement by the University of Illinois indicating intent to rehire the employee after the break in service.** The initial 12-month period is measured forward from the date the employee first takes FMLA leave. The next 12-month period begins the first time FMLA leave is taken after completion of any previous 12-month period. For example: the first time an employee takes FMLA leave is on September 19 and he/she uses the entire 12 weeks. The next time the employee is eligible for FMLA leave is on September 19 of the following year (year two). However, the employee does not need to take an FMLA leave starting on September 19 of year two, but needs to take one starting on November 23 of year two. The employee uses 4 weeks starting with the November 23 date and then needs to use the remaining 8 weeks in January. The employee has now exhausted their twelve weeks for year two (which started on November 23) and is not eligible to take another 12 weeks until November 23 (year three).

An employee shall be entitled, on return from leave, to be restored to the position held by the employee when the leave commenced, or to an equivalent position with equivalent benefits, pay and other conditions of employment.

SPECIFIC PROVISIONS

Entitlement to Leave

Family and Medical Leave shall be granted for the following purposes:

- (A) For the birth of a ~~child~~ **childson or daughter** of the employee, and in order to care for such child. Entitlement expires at the end of the 12-month period beginning on the date of birth.
- (B) For placement of a ~~child~~ **childson or daughter** with the employee for adoption or foster care. Entitlement expires at the end of the 12-month period beginning on the date of placement. If such leave began before the actual placement because absence from work was required for the placement or adoption to proceed, entitlement expires at the end of the 12-month period beginning on the last day worked.
- (C) For care of spouse, ~~child~~ **childson, daughter**, or parent in case of serious health condition. **Employee does not need to be the only individual available to care for the spouse, son, daughter, or parent to be eligible.**

~~“Child~~ **Son or daughter**” includes biological, adopted, foster, stepchild, legal ward, or child of a person standing in loco parentis—who is under 18 years of age, or over age 18 but incapable of self-care because of a mental or physical disability (**as defined by FMLA regulations**). “Parent” is defined by the Family and Medical Leave Act as a biological parent, adoptive, step or foster father or motherparent, or any other individual who stood in loco parentis to an employee. FMLA Leave for a parent-in-law is specifically excluded by the ACT; however, a leave of absence to care for a parent-in-law may be granted to employees under the university’s sick leave and other leave policies.

~~“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves (1) inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment; (2) a period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider; (3) any period of incapacity due to pregnancy or for prenatal care; (4) a chronic condition which requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.); (5) a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider (e.g., Alzheimer’s, severe stroke, terminal stages of a disease); or (6) multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), kidney disease (dialysis).~~

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves either:

- **Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or**
- **Continuing treatment by a health care provider, which includes:**

(1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:

- **treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or**
- **one treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or**

(2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or

(3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or

(4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or

(5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

(D) For a serious health condition that makes the employee unable to perform the functions of his/her position. “Serious health condition” is defined in (C) above.

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(E) For the care of a son, daughter, spouse, parent or next of kin who is a covered service member with a serious injury or illness. During a single 12-month period, an eligible employee is entitled to twenty-six (26) workweeks of leave are on a per-covered service member, per-injury/illness basis. Employee does not need to be the only individual available to care for covered service member to be eligible.

“Son or daughter” includes biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis and who is of any age.

“Parent” means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee.

“Next of kin” means the nearest blood relative of a covered service member (other than his/her spouse, parent, son, or daughter), in the following priority order: (1) a blood relative designated in writing by the service member as his/her nearest blood relative for purposes of caregiver leave; (2) blood relatives who have been granted legal custody of the service member by court decree or statutory provisions; (3) brothers and sisters; (4) grandparents; (5) aunts and uncles; (6) first cousins.

“Covered service member” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

“Serious injury or illness” means an injury or illness incurred by a covered service member: (a) in the line of duty on active duty; and (b) that may render the service member medically unfit to perform the duties of the service member’s office, grade, rank, or rating.

The “single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by the employer for other types of FMLA leave.

(F) Because of a qualifying exigency arising out of the fact that a son, daughter, spouse, or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.

“Qualifying exigency” includes any one or more of the following: short-notice deployment activities; military events and related activities; childcare and school activities; financial and legal arrangements; counseling activities; rest and recuperation activities; post-deployment activities; and/or additional activities, upon which the University and the employee agree, which arise out of the active duty status or call to duty.

“Active duty or call to active duty status” means military 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 pursuant to Section 688, Section 12301(a), Section 12302, Section 12304, Section 12305, Section 12406, or Chapter 15 of Title 10 of the United States Code, or pursuant to any other

law during a war or during a national emergency declared by the President or Congress as long as it is in support of a contingency operation.

“Contingency operation” is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the U.S. or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services under the Sections and Chapter listed above, or under any other provision of law during war or during a national emergency declared by the President or Congress.

Leave Schedule

Leave for birth or adoption **of a healthy child** shall be taken all at one time, not on an intermittent or reduced leave schedule, unless the employee and supervisor or responsible departmental official agree otherwise in writing. In the case of adoption or foster care, leave may begin before the actual placement or adoption of a child if an absence from work is required for the placement to proceed.

Leave for ~~medical reasons~~ **a serious medical** condition (employee or family) may be taken intermittently or on a reduced schedule basis when medically necessary. Under such conditions, the employee may be required to transfer temporarily to an available alternative position with equivalent pay and benefits if the transfer better accommodates recurring periods of leave. **Employees cannot be transferred to an alternative job while on exigency leave.**

“Intermittent leave” is leave taken in separate blocks of time due to a single ~~illness or injury~~ **qualifying reason**. A “reduced leave schedule” is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday.

The ~~twelve~~ workweeks of Family and Medical Leave to which eligible employees are entitled shall be based on the number of hours in the employee’s normal workweek schedule at the percentage of the appointment. For example, a sixty-four-percent-time employee scheduled to work twenty-four hours per week would be entitled to leave for twelve 24-hour workweeks, or 288 hours **(or, if leave is to care for a covered service member, twenty-six 24-hour workweeks, or 624 hours)**. Only the amount of leave actually taken may be counted toward the 12 **or 26** weeks of leave to which an employee is entitled. The taking of leave intermittently or on a reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

The amount of time taken for family and medical leave shall be reported in increments consistent with ~~sick~~ **university** leave reporting **policies and procedures**. FMLA leave balances shall not accrue or carry over to the next 12-month leave period.

An eligible employee on a flex-year or seasonal leave appointment shall be entitled to leave during those periods when he or she is expected to furnish regular service to the University.

Notice of Leave

In any case in which the necessity for leave is foreseeable based on an expected birth or adoption placement, or based on planned medical treatment, the employee shall provide his/her supervisor with not less than 30 calendar days notice before the date the leave is to begin. If not foreseeable 30 days in advance, the employee shall provide verbal notice within two working days of learning of the need for leave, ~~or as is practicable~~ **and should provide an explanation to his/her supervisor indicating why providing such notice was not practicable. Failure to respond to such inquiries may result in denial of FMLA protection if the supervisor is unable to determine that leave is FMLA qualifying. If employee fails to comply with these procedures, absent unusual circumstances, the supervisor may delay or deny FMLA-protected leave.** If the leave is for planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the department. **When foreseeable leave is due to a qualifying exigency, notice must be provided as soon as practicable regardless of how far in advance leave was foreseeable.**

Medical Certification

~~Certification issued by the employee's or the family member's health care provider shall be required to support a request for unpaid medical leave for a serious health condition. Requests for paid leave shall be handled in accordance with University sick leave policy.~~

~~Certification shall include a statement of how the medical facts applying to the patient's condition support the criteria of the definition of "serious health condition", the approximate date the serious health condition commenced and its probable duration, whether it will be necessary for the employee to work intermittently or on a reduced leave schedule as a result of the condition, and an estimate of the number of any additional treatments that may be required. If leave is required for an employee's own condition, certification shall include whether the employee is unable to perform work of any kind, is unable to perform any one or more of the essential functions of the position, or must be absent from work for treatment. If leave is required to care for a family member, certification shall include whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.~~

An employee's request for leave to care for a spouse, or a son, daughter, or parent with a serious health condition or for a serious health condition that makes the employee unable to perform the functions of the position of the employee must be supported by an acceptable certification issued by a health care provider. An acceptable certification must include:

- (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 commenced, and its probable duration;**
- (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. Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;**
- (4) If the employee seeks leave for his or her serious health condition, 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 leave is sought to assist a serious health condition of a covered family member, information sufficient to establish that the employee is needed to care for the son, daughter, spouse, or parent 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 sufficient 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 the 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 which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required leave.**

Such certification shall be submitted to the head of the employing department before commencement of the leave, or within 15 calendar days of the notification of the need for leave when the leave is not foreseeable, or as is practicable. Departments may seek assistance from the campus/**central** human resources offices regarding the acceptability of the certification provided.

If the University deems a medical certification to be incomplete or insufficient, it shall provide the employee with written notice of what information is lacking, and the employee shall have seven calendar days to cure the deficiency.

Second Opinion:

If the medical certification provided is determined to be unacceptable, the employee may be required to obtain the opinion of a second health care provider designated or approved by the University, but not employed by the University.

Binding Third Opinion:

In any case in which the second opinion differs from the opinion provided by the employee's provider, the opinion of a third provider may be required. The third provider shall be designated or approved jointly by the University and the employee. The opinion of the third provider shall be considered final and shall be binding on the University and employee.

Each campus shall develop procedures for the review of medical certification and referral for second and third opinions. Departments should contact the appropriate **campus/central** human resources office for assistance with medical certification questions and problems.

Any expenses associated with obtaining second and third opinions shall be the responsibility of the employing department.

~~An employee on leave may be required to obtain subsequent recertifications on a reasonable basis.~~

At reasonable intervals and at the discretion of the University, an employee on leave may be required to obtain subsequent recertifications.

An employee's failure to provide required certification within 15 calendar days may result in delay or denial of leave. If the supervisor has acquired knowledge that the leave is being taken for an FMLA required reason, the supervisor may designate the leave as FML leave and must notify the employee within ~~two~~ **five** business days (absent extenuating circumstances). If the notice is verbal, it shall be confirmed in writing, no later than the following payday (unless payday is less than one week after the verbal notice, in which case the notice must be no later than the subsequent payday).

Certification of Qualifying Exigency

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation.

Return from Leave

Ordinarily, an employee who has been absent for Family and Medical Leave shall be restored to the position of employment held by the employee when the leave commenced; or an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. ~~Restoration to the same or equivalent position shall be contingent on the University's policies governing reappointment and the expected continuation of the appointment.~~ **The University must be able to show that the employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.**

A returning employee shall be entitled to certain rights and benefits, e.g., salary adjustments and fringe benefit enhancements, to which the employee would have been entitled had he/she not taken the leave.

An employee on leave may be required to report periodically to the supervisor or department head on his/her status and intention to return to work. Civil Service Staff employees returning from Family and Medical Leave are expected to contact employing departments at least 30 calendar days in advance of the anticipated date of return from leave, in order to permit departments to plan for reinstatement.

An employee who has been absent for medical reasons may be required to obtain a statement from a health care provider that the employee is able to resume work, in accordance with University policies ~~that apply to return from Disability Leave.~~ **The unit must provide notice to the employee at the time the leave is approved that a return to work fitness evaluation will be required. If the fitness certification will include analysis of the employee's ability to perform essential functions of his/her job, a list of the essential functions must be provided to the employee with the FMLA designation notice.**

Benefits While on Family and Medical Leave

Health Insurance:

Coverage of group health and dental insurance shall be continued by the University at the same level that coverage would have been provided if the employee had remained in employment continuously. Employees are responsible for paying the employee-paid portion of their health insurance premiums, as well as dependent coverage premiums. **If the employee does not make required payments during the leave period, the CMS-Group Insurance Division (GID) will terminate the member's coverage the first day of the current month. These members are ineligible to continue coverage under COBRA and will not receive a COBRA notification letter (eligible or ineligible). CMS will take action to collect all outstanding premium(s), which may include involuntary withholding.** ~~If required payments are not made by the employee during the leave period, insurance coverage may be discontinued.~~

Extension of Other Insurance Coverage:

An employee may continue insurance coverage in excess of the University's contribution by contacting the Benefits Center within thirty (30) days following the last day of paid employment to make arrangements for premium payments.

State Universities Retirement System Benefits:

To determine the effect of leave on the accumulation of service time for retirement and to assure continuation of contributions, the employee should contact the State Universities Retirement System.

Recovery of Premiums:

The University may recover the premiums paid for maintaining coverage for the employee if the employee fails to return from leave for a reason other than continuation, recurrence, or onset of a serious health condition (employee or family), or other circumstances beyond the control of the employee. Certification of such conditions may be required by the University.

Disability Benefits:

In the case of an extended disability due to a serious health condition, an employee may qualify for disability benefits through the State Universities Retirement System. Employees may request an Application for Disability Benefit from the human resources offices. **Leave for disability or pending disability counts towards the 12-week FMLA entitlement.**

Workers Compensation:

All leave under workers compensation counts towards the 12-week FMLA entitlement.

Accrual of Vacation and Sick Leave:

While on unpaid leave under the terms of this Act, an employee will not accrue additional vacation/personal or sick leave.

Seniority:

Civil Service Staff employees will continue to accumulate seniority in accordance with State Universities Civil Service System Statute and Rules 250.120. ~~An employee may accrue seniority up to 30 days while on unpaid Family and Medical Leave for care of a seriously ill family member or for care of a child following birth or adoption. Seniority will accrue beyond 30 days while an employee is on unpaid Family and Medical Leave for personal illness or pregnancy.~~

Use of Accrued Sick Leave and Vacation ~~and Personal Leave~~

Birth or Adoption:

For care of a child following birth or adoption, an employee may elect to substitute accrued paid leave toward the ~~12-week~~ **FMLA** period, in accordance with University leave provisions and ~~Policy and Rules: Nonacademic policies~~. Any portion of the FMLA period for which accrued leave is not substituted shall be without pay. Accrued leave used for this purpose will be counted toward the ~~12-week~~ FMLA entitlement.

Serious Health Condition, Family Member or Covered Service member

For care of a spouse, **son, daughter, child,** or parent with a serious health condition, leave is provided under the terms and conditions of University sick leave policies. In addition, an employee may elect to substitute accrued vacation and personal leave toward the **FMLA** ~~12-week~~ period. Any portion of the **FMLA** ~~12-week~~ period for which accrued leave is not substituted shall be without pay. Accrued leave used for this purpose will be counted toward the ~~12-week~~ FMLA entitlement.

Serious Health Condition, Employee

If an employee is unable to work because of a serious health condition, leave is provided under the terms and conditions of the University's sick leave policies. An employee may elect to substitute accrued vacation and personal leave toward the ~~12-week~~ **FMLA** period. In addition, employees who exhaust their accrued sick leave balances may be eligible to receive disability benefits through the State Universities Retirement System. Any portion of the **FMLA** ~~12-week~~ period for which accrued sick leave, disability leave, or accrued vacation and personal leave are not substituted shall be without pay. Accrued leave used for this purpose will be counted toward the ~~12-week~~ **FMLA** entitlement.

Qualifying Exigency

Employees have the option to take leave with or without pay. To continue in pay status during the FMLA period (or any part thereof) for a qualifying exigency leave, an employee must use accrued vacation leave in accordance with University leave provisions and policies. Accrued leave used for this purpose will be counted toward the FMLA entitlement. Any portion of the FMLA period for which accrued leave is not charged shall be without pay.

Extension of Leave Beyond Twelve or Twenty-Six Weeks

Benefits under the Family and Medical Leave Policy expire after twelve weeks (**twenty-six weeks to care for a covered service member**). An employee seeking approval of leave beyond the ~~12-week~~ Family and Medical Leave entitlement shall present a written request to his/her supervisor, which shall be acted upon pursuant to departmental procedures and in accordance with University policies related to leaves of absence without pay and other leaves. The request shall state information as to the nature, duration, and justification for the requested leave.

Employing a Replacement While Employee is on Leave

For information or assistance regarding the procedures for employing a replacement while an employee is on leave, departments may consult the campus/**central** human resources offices.

Effective Date of Act

August 5, 1993

Amended Date of Act

January 16, 2009

Questions

Interpretation of specific requirements of the Family and Medical Leave policy are subject to provisions contained in the full text of the Act. Questions regarding the provisions of the Family and Medical Leave Act and the Department of Labor Regulations for its implementation should be directed to the campus/**central** human resources offices.