University Of Illinois System

## FAMILY AND MEDICAL LEAVE POLICY

Effective November 14, 2013

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General Policy Statement

In accordance with the Family and Medical Leave Act of 1993, and as amended in 2009,

2013, 2015, and 2021, Family and Medical Leave shall be granted to an employee for the birth

or adoption of a child; for the care of a child, spouse (including legal same-sex spouse), or parent who has a serious health condition; when unable to perform the function of their position due to a serious health condition; for the care of a child, spouse (including legal same-sex spouse), parent or next of kin who is a covered servicemember with a serious injury or illness incurred: (a) in the line of duty on active duty; and (b) that may render the servicemember medically unfit to perform the duties of the servicemember’s office, grade, rank, or rating; or because of a qualifying exigency arising out of the fact that a child, spouse (including legal same-sex spouse), or parent is on a covered active duty or call to active duty status in support of a contingency operation as a member of the National Guard, Reserves, or Regular Armed Forces. Covered active duty requires deployment to a foreign country. Eligible employees may take leave to care for a servicemember’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty.

Employees who have been employed by the University for at least 12 months and who have performed at least 1,000 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 servicemember) of unpaid family and medical leave during each consecutive 12-month period for which eligibility criteria have been met. Periods of employment with the University separated by a break in service will be counted when determining the 12 months of service provided that the 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. In most cases, 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 they use 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). Leave for a serious or chronic health condition may be taken intermittently and the leave start date may be influenced by other factors including medical certification or notice given. For example: an employee is medically certified on May 15 to take intermittent leave. However, the first time the employee uses FMLA leave is June 20 and that leave continues intermittently throughout the year. The FMLA leave start date remains May 15 and the employee will need to medically recertify the condition on May 15 of the following year (year two).

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 of the employee, and in order to care for such

child. Both parents are entitled to FMLA leave to be with the healthy newborn

child (i.e., bonding time) during the 12-month period beginning on the date of

birth. Entitlement expires at the end of the 12-month period beginning on the

date of birth.

(B) For placement of a child 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, or parent in case of serious health condition.

Employee does not need to be the only individual available to care for the

spouse, child, or parent to be eligible. A spouse is entitled to FMLA

leave if needed to care for a pregnant spouse who is incapacitated or if needed

to care for them during their prenatal care, or if needed to care for them following the birth of a child if they have a serious health condition.

“Child” includes biological, adopted, foster, stepchild, legal ward,

legal same-sex spouse’s child, 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). “Spouse”

includes a husband or wife to whom an individual entered into marriage as

defined or recognized under state law for purposes of marriage in the State in

which the marriage was entered into or, in the case of a marriage entered into

outside of any State, if the marriage is valid in the place where entered into and

could have been entered into in at least one State. This definition includes an

individual in a same-sex or common law marriage that either (1) was entered

into in a State that recognizes such marriages; or (2) if entered into outside of

any State, is valid in the place where entered into and could have been entered

into in at least one State. “Parent” is defined by the Family and Medical Leave

Act as a biological, adoptive, step or foster father or mother, legal same-sex

spouse of parent, or any other individual who stood in loco parentis to an

employee. “In loco parentis” includes those with day-to-day responsibilities to

care for or 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. Similarly, an employee may take leave to

care for someone who, although having no legal or biological relationship to the

employee when the employee was a child, stood in loco parentis to the

employee when the employee was a child, even if they have no legal or

biological relationship. 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 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 due to pregnancy, for prenatal care, or for their

own serious health condition following the birth of a child. The

expectant mother is entitled to leave for incapacity due to pregnancy

even though they do 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; 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 work at all or

is unable to perform any one of the essential functions of their position.

“Serious health condition” is defined in (C) above.

(E) For the care of a child, spouse, including legal same-sex spouse as

defined in (C) above, parent or next of kin who is a covered servicemember

with a serious injury or illness. During a single 12-month period, an eligible

employee is entitled to twenty-six (26) workweeks of leave on a per-covered

servicemember, per-injury/illness basis. Employee does not need to be the only

individual available to care for covered servicemember to be eligible.

“Child” includes biological, adopted, foster child, stepchild, legal

ward, legal same-sex spouse’s child, 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, legal

same-sex spouse of parent or any other individual who stood in loco parentis to

the employee.

“Next of kin” means the nearest blood relative of a covered servicemember

(other than their spouse, parent, or child), in the following priority

order: (1) a blood relative designated in writing by the servicemember as their

nearest blood relative for purposes of caregiver leave; (2) blood relatives who

have been granted legal custody of the servicemember by court decree or

statutory provisions; (3) siblings; (4) grandparents; (5) aunts and

uncles; (6) first cousins.

“Covered servicemember” is a covered veteran or a current member of the

Armed Forces, including a member of the National Guard, Reserves, or Regular

Armed Forces 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.

“Covered veteran” is an individual who was discharged or released under

conditions other than dishonorable at any time during the five-year period prior

to the first date the eligible employee takes FMLA leave to care for the covered

veteran.

“Serious injury or illness” means an injury or illness incurred by a covered

servicemember: (a) in the line of duty on active duty; and (b) that may render

the servicemember medically unfit to perform the duties of the servicemember’s

office, grade, rank, or rating; and (c) injuries or illnesses that existed before the

beginning of the member’s active duty and were aggravated by service in the

line of duty on active duty in the Armed Forces.

“Serious injury or illness for a covered veteran” means an injury or illness that

was incurred or aggravated by the member in the line of duty on active duty in

the Armed Forces and manifested itself before or after the member became a

veteran, and is: (1) a continuation of a serious injury or illness that was incurred

or aggravated when the covered veteran was a member of the Armed Forces and

rendered the servicemember unable to perform the duties of the

servicemember’s office, grade, rank, or rating; or (2) a physical or mental

condition for which the covered veteran has received a VA Service Related

Disability (VASRD) Rating of 50 percent or greater and such VASRD rating is

based, in whole or in part, on the condition precipitating the need for caregiver

leave; or (3) a physical or mental condition that substantially impairs the

veteran’s ability to secure or follow a substantially gainful occupation by reason

of a disability or disabilities related to military service or would do so absent

treatment; or (4) an injury, including a psychological injury, on the basis of

which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

The “single 12-month period” for leave to care for a covered servicemember

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 child,

Spouse (including legal same-sex 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, Reserves, or Regular Armed Forces.

“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 of Illinois and the employee agree, which arise out of the active duty status or call to duty. Employees who request qualifying

exigency leave to spend time with a servicemember on rest and recuperation

may take up to 15 calendar days of leave.

“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 newborn 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 may be taken

intermittently or on a reduced schedule when the expectant mother has a serious health

condition in connection with the birth of their child or if the newborn child has a serious

health condition.

Leave for a serious health 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.

Spouses who are eligible for FMLA leave and are both employed by the University of

Illinois shall be limited to a combined total of 12 workweeks of leave during the single

12-month period if leave is taken for birth of the employee’s child or to care for the child after birth, for placement of a child with the employee for adoption or foster care, or to care for the child after placement, or to care for the employee’s parent with a serious health condition. Leave shall be limited to a combined total of 26 workweeks during the single 12-month period if leave is taken to care for a

covered servicemember with a serious injury or illness. These limitations on the total weeks of leave applies as long as the spouses are both employed by the University of Illinois System.

“Intermittent leave” is leave taken in separate blocks of time or any part of a single day

due to a single 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 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 servicemember,

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 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 they are expected to furnish regular service to the

University of Illinois.

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

their department human resource representative 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 and should provide an explanation to their department human resource representative 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 department 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

An employee’s request for leave to care for a spouse (including legal same-sex spouse), or a child, or a 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, and telephone 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 their 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 child, 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 applicable human resources office, 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 their university, hospital, or System human resources office regarding the acceptability of the certification provided.

If the University of Illinois 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 to the employing

unit or applicable human resources office, the employee may be required to obtain the

opinion of a second health care provider designated or approved by the University of Illinois, but

not employed by the University of Illinois.

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 of Illinois and the employee. The opinion

of the third provider shall be considered final and shall be binding on the University of Illinois and

employee.

Each university, hospital, and System human resource office shall develop procedures for the review of medical certification and referral for second and third opinions. Each university shall also develop procedures for making a determination of the FMLA start date when the start usage date differs from that on the medical certification. Departments should contact the appropriate university, hospital, or System 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 may be required to obtain a recertification of a medical condition every six

months in connection with an absence. Under certain circumstances, recertification may

be requested more often. Contact your university, hospital, or System human resources office for assistance.

An employee’s failure to provide required certification within 15 calendar days may

result in delay or denial of leave. If the applicable human resources office has acquired knowledge that the leave is being taken for an FMLA required reason, the applicable human resources office may designate the leave as FML leave and must notify the employee

within 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 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. If the University of Illinois would not otherwise have employed the

employee at the time reinstatement is requested, the University of Illinois may 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 they not taken the leave.

An employee on leave may be required to report periodically to the supervisor or

department head on their 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 of Illinois policies. The unit must provide notice to the employee at the

time the leave is approved that a certification that they are able to return to work will be

required. If the certification will include analysis of the employee’s ability to perform

essential functions of their 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 of Illinois 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.

Extension of Other Insurance Coverage:

An employee may continue insurance coverage in excess of the University of Illinois’

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 of Illinois 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 of Illinois.

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 system or university 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 while on

unpaid Family and Medical Leave.

Use of Accrued Sick Leave and Vacation Leave

Birth or Adoption:

For care of a child following birth or adoption, an employee may elect to

substitute accrued paid leave toward the FMLA period, in accordance with

University leave provisions and 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 FMLA

entitlement.

Serious Health Condition, Family Member or Covered Servicemember:

For care of a spouse (including legal same-sex spouse), 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 leave toward the FMLA period. 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 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 sick

leave policies. An employee may elect to substitute accrued vacation and

personal leave toward the 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 period for which accrued sick leave, disability leave,

or accrued vacation leave are not substituted shall be without pay. Accrued

leave used for this purpose will be counted toward the 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 of Illinois 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 servicemember). An employee seeking approval of leave

beyond the Family and Medical Leave entitlement shall present a written request to

their department human resource representative, which shall be acted upon pursuant to departmental procedures and in accordance with University of Illinois 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 their university, hospital, or System human resources office.

Effective Date of Act

August 5, 1993

Amended Dates of Act

February 25, 2015

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 appropriate university, hospital, or System human resources offices.