

### Basic Leave Entitlement

FMLA Requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to 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, son, daughter 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.

### Military Leave Entitlements

Eligible employees whose spouse, son, daughter, or parent is on covered active duty or call to covered active duty status 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 leave 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: 1) 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\*; or 2) a veteran who was discharged or released under conditions other than dishonorable at any time during the 5-year period prior to the 1<sup>st</sup> date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness\*.

\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".

### Benefits and Protections

While on FMLA leave, the employer must maintain the employee's health coverage under any 'group health plan' 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 FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

### Eligibility Requirements

Employees are eligible if they have worked for the University for at least 12 cumulative months (employment prior to continuous break in service of 7 years or more is not counted) and for 1,250 hours (hours worked, not hours in pay status) over the previous 12 months\* and if at least 50 employees are employed by the employer within 75 miles. \*Special hours of service eligibility requirements apply to airline flight crew employees.

Spouses who both work for the university are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered service member with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

### Definition of a 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 the 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 employer's operations. Leave to due qualifying exigencies may also be taken on an intermittent basis.

### Substitution of Paid Leave

Employees may choose or the University may require use of accrued paid leave while taking FMLA leave when applicable. In order to use paid leave for FMLA leave, employees must comply with the University's normal paid leave and notification policies.

### 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 the University's normal call-in procedures, except in unusual circumstances. Failure to give the required notice may result in denial of leave. Failure to comply with University call-in procedures may result in discipline.

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 are required to provide a certification and periodic recertification supporting the need for leave.

Employees must follow University required notice procedures for substitution of paid leave for FMLA leave.

### Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under the 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 employer must provide a reason for the ineligibility.

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

### Unlawful Acts by Employers

The FMLA makes it unlawful for any employer to:

Interfere with, restrain, or deny the exercise of any right provided under the FMLA; and  
Discharge or discriminate against any person for opposing any practice made unlawful by the 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.

The 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.

FMLA section 109(29 U.S.C. s 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R.s 825.300(a) may require additional disclosures.