Information

Family and Medical Leave

Effective

January 4, 2001

Number

PER-4.17

Applicability

This policy applies to University Administrators, Faculty, and Staff.

Administrative Authority

Vice President for Human Resources

Responsible Unit

Human Resources

Miller Information Technology Center Rm 02C

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Louisville, KY 40292

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History

Revision Date(s): January 4, 2001; January 1, 2011; February 17, 2017; May 17, 2017 (effective November 30, 2017); July 26, 2021; December 10, 2021 (minor edits); August 24, 2022 (minor edit); April 2, 2026 (minor revision)

Reviewed Date(s): March 9, 2016; May 17, 2017

Categories

Reason for Policy:

This policy has been established to comply with the Federal Family and Medical Leave Act of 1993 (FMLA) and related Department of Labor regulations, and to establish university equivalent benefits for such other individuals as deemed consistent with the university's equal employment policy. The policy prescribes the leave benefits available to eligible employees and it applies to all faculty and staff employees who meet the eligibility requirements defined in this policy.

Statement:

Family and medical leave is provided to eligible employees for any of the events or conditions listed below. Leave taken for these events must be reported as family and medical leave:

- The birth of a child and the care of the newborn.
- The placement of a child with an employee in connection with the adoption or state-approved foster care of the child.
- The serious health condition of a child, parent, or spouse of the employee or a qualifying adult or child of a qualifying adult.
- A serious health condition of the employee.
- Qualifying Exigency Leave. An employee whose son, daughter, spouse, parent, qualifying adult or child with a qualifying adult who is on active duty or has been notified of an impending call to active duty in the regular Armed Forces, National Guard or Reserves. May be used for notice of deployment or return; any official ceremony, program or event sponsored by the military; to attend

family support and assistance programs and informational briefings sponsored by the military, military service organizations, or the American Red Cross; to arrange child care or attend certain school functions of the son or daughter of a covered military family member; to make or update financial or legal arrangements to address the covered military family members absence while on active duty or call to active duty; to attend counseling by a non-health care provider; to spend time with a covered military family member on rest and recuperation leave during a period of deployment; to address issues arising from the death of a covered military family member.

An eligible employee is entitled to a maximum of 12 weeks of approved family and medical leave in a year, as defined in this document.

ADDITIONAL CONDITIONS:

- An eligible employee must use all applicable accrued paid leave balances (including sick, vacation, and personal leave) while taking family and medical leave. Any sick leave of more than seven consecutive days or intermittent leave of any duration for qualifying serious or chronic health conditions must be counted as family and medical leave.
- If an employee is requesting continuous or intermittent family and medical leave, the employee must ensure submission of Family Medical Leave forms to Human Resources outlined in the **PROCEDURES** section below.
- An employee on Workers' Compensation who wishes to continue to receive University health benefits is required to apply for family and medical leave.

- If both spouses (or an employee and his or her qualifying adult) are employed by the University of Louisville, each employee is entitled to 12 weeks of leave during any 12- month period for the birth or placement of a child or for other qualifying events or conditions.

- Leave for birth or placement of a child must take place within 12 months after the event. Leave may begin prior to the birth or adoption. Leave for birth or placement of a child is available equally to both sexes.

- An intermittent or reduced leave schedule is available under the Family and Medical Leave Act for the serious health condition of the employee, employee's

spouse, child, or parent or the employee's qualifying adult.

- For the period of the family and medical leave that is without pay, the employee may continue insurance benefits (excluding disability insurance plans) and will receive the premium sharing from the university toward the cost of health insurance. The employee is responsible for self-paying by personal check or money order that part of his/her insurance cost that would otherwise be deducted from the employee's paycheck.

- For the period of the family and medical leave that is without pay, the employee on family and medical leave will continue to accrue service credit but will not accrue vacation and sick leave.

- Except under the conditions outlined in section I below, employees returning from approved family and medical leave must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

    1. An employee offered an equivalent position who chooses to decline the position waives any rights to reinstatement.
    2. An employee who believes that a position offered is not an equivalent position is entitled to file a grievance under the university's grievance policy and procedure, Section PER- 5.03, Grievances.

- The university may decline to restore an employee on family and medical leave to his/her original or equivalent position under the conditions listed below.

    1. If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

    2. If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the

employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

3. If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.
4. If the employee is among the highest paid ten percent employed by the university and a determination is made by the President that restoring employment to the employee would result in substantial economic injury to the university, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that he/she may be ineligible for reinstatement.

   In such cases, the employee maintains only those rights provided by such regulations as COBRA and in the case of a reduction in force.

- If an employee elects not to return to work upon completion of an approved unpaid family and medical leave, the employee is obligated to reimburse the university for the amount of the university's contribution of insurance premium during any complete months of unpaid leave. The employee need not reimburse the university if the failure to return to work was for reasons beyond the employee's control, or if the employee retires directly from leave or within 30 days of returning from leave.

SERVICE MEMBER FAMILY LEAVE

An eligible employee who is the spouse, son, daughter, parent, next of kin or qualifying adult of a covered service member shall be entitled to a total of 26 work weeks of leave during a single 12 month period to care for the service member.

When the veteran designates in writing a blood relative as next of kin for FMLA purposes, that individual is deemed to be the veteran's only FMLA next of kin. When the veteran has not designated in writing a next of kin for FMLA purposes, and there are multiple family members with the same level of

relationship to the veteran, all such family members are considered the veteran's next of kin and may take FMLA leave to provide care to the veteran. See definitions below.

Review: The university expressly reserves the right at any time to modify, alter, or amend this policy in whole or in part. The university shall have the unlimited right to amend this policy at any time, retroactively or otherwise, in such respect and to such extent as may be necessary to meet any legal requirement and to the extent necessary to accomplish this purpose. The President or the Vice President for Human Resources, as the President's designee is hereby granted authority to issue interpretations and clarify rules under this policy and to coordinate it with or modify other rules of the university as required from time to time for compliance with the law.

If both spouses (or an employee and his or her qualifying adult) are employed by the University of Louisville, each employee is entitled to 12 weeks of leave during any 12- month period for the birth or placement of a child or for other qualifying events or conditions.

Leave for birth or placement of a child must take place within 12 months after the event. Leave may begin prior to the birth or adoption. Leave for birth or placement of a child is available equally to both sexes.

An intermittent or reduced leave schedule is available under the Family and Medical Leave Act for the serious health condition of the employee, employee's spouse, child, or parent or the employee's qualifying adult.

For the period of the family and medical leave that is without pay, the employee may continue insurance benefits (excluding disability insurance plans) and will receive the premium sharing from the university toward the cost of health insurance. The employee is responsible for self-paying by personal check or money order that part of his/her insurance cost that would otherwise be deducted from the employee's paycheck.

For the period of the family and medical leave that is without pay, the employee on family and medical leave will continue to accrue service credit but will not accrue vacation and sick leave.

Except under the conditions outlined in section I below, employees returning from approved family and medical leave must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

1. An employee offered an equivalent position who chooses to decline the position waives any rights to reinstatement.
2. An employee who believes that a position offered is not an equivalent position is entitled to file a grievance under the university's grievance policy and procedure, Section PER- 5.03, Grievances.

1. If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

2. If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

3. If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.
4. If the employee is among the highest paid ten percent employed by the university and a determination is made by the President that restoring employment to the employee would result in substantial economic injury to the university, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that he/she may be ineligible for reinstatement.

   In such cases, the employee maintains only those rights provided by such regulations as COBRA and in the case of a reduction in force.

If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

Related Information:

Covered Service Member

Federal Family and Medical Leave Act of 1993 (FMLA)

PER 4.21 Leave of Absence without Pay

Definitions:

Policy Key Terms

Active Duty: Limited to a member of the Reserve components, the National Guard, certain retired members of the Regular Armed Forces and retired Reserve while serving on active duty status. Only available where the Federal call to active duty 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 United States or against an opposing military force.

Covered Service Member: A member of the regular 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 health injury or illness.

Chronic health condition: One that meets all the following requirements:

1. Requires periodic visits for treatment by a health care provider;

2. Continues over an extended period of time; and
3. May cause episodic rather than continuing incapacity (e.g., asthma, diabetes, epilepsy).

Next of Kin: The nearest blood relative of that individual or someone who stood in the place of a parent of such individual.

Next of Kin (of a covered veteran):

The "next of kin" of a covered veteran is the nearest blood relative, other than the veteran's spouse, parent, son, or daughter, in the following order of priority:

1. A blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes.
2. Blood relative who has been granted legal custody of the service member.
3. Brothers and sisters.
4. Grandparents.
5. Aunts and uncles.
6. First cousins.

Incapacity: For the purposes of FMLA, the inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment therefore, or recovery therefrom.

Outpatient Status: A member of the regular Armed Forces assigned to:

1. A military medical treatment facility as an outpatient; or
2. A unit established for the purpose of providing command and control of members of the regular Armed Forces receiving medical care as outpatients.

Serious Injury or Illness: An injury or illness incurred by the service member in the line of duty or on active duty in the regular Armed Forces that may render the service member medically unfit to perform the duties of the service member's office, rank, or rating.

Treatment: For the purpose of FMLA, includes, but is not limited to, examinations to determine if a serious health condition exists. Treatment does not include routine physical, eye, or dental exams.

Specific conditions for which treatment does not qualify for FMLA leave include: cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental, or orthodontia problems and periodontal disease. Cosmetic treatments are not considered a serious health condition unless medically required or unless complications arise.

For other definitions and terms within this policy, visit the Policy Definition webpage.

Procedures:

Take the following steps to apply for family and medical leave:

1. Complete and submit Section I of the Employee Request for Family Medical Leave form to your immediate supervisor.
2. Have your health care provider complete Section II of the Employee Request for Family Medical Leave form to your health care provider and submit it to Human Resources.

Contact the Human Resources Department at 502-852-6258 for additional information and assistance.

Responsibilities:

It is the responsibility of the employee's department Unit Business Manager or designee to notify human resources of employee absences of more than seven days or any pattern of employee intermittent absences.