

SUBJECT: Family and Medical Leave Act

Intent

The intent of the Family and Medical Leave Act is to guarantee job protection up to 12 weeks a year (26 weeks for a service member) for individuals who because of certain family and medical reasons must be absent from work. If you have any questions concerning FMLA, feel free to contact the Office of Human Resources.

Policy

The FMLA requires that eligible employees be granted up to 12 weeks a year (beginning with the employee's first usage of FMLA leave) of job-protected leave for certain family and medical reasons (which will hereafter be referred to as "qualifying events") or 26 weeks a year to care for a service member or active duty of a service member. Employees are required to take Annual or Sick Leave, if available, depending on the nature of the absence while on FMLA. The appropriate type of leave must be exhausted before approval will be granted to use leave without pay for Family and Medical Leave. For example, if an academic employee has a "qualifying event" which does not qualify as annual leave, the employee will be granted leave without pay. The type of leave to be granted MUST be determined prior to the beginning of the leave. No one can retroactively change the type of leave granted, unless the "qualifying event" occurs during a period of routine leave.

1. Eligible Employees

Employees who have worked for the state for 12 months and who have worked 1,250 hours in the preceding twelve-month period (from the time the requested leave is to begin) are eligible. This applies to all employee groups (part-time, transients, etc.).

2. Qualifying Events

An "eligible" employee may receive a total of 12 workweeks of leave during any 12-month period for one or more of the following reasons:

- a. for the birth of a child and/or to care for the child;
- b. for placement of a child through adoption or foster care;
- c. for the care of the employee's spouse (wife or husband), son, daughter, or parent who has a serious health condition;
- d. for the employee's own serious health condition which prevents the employee from performing their essential duties.
- e. for any qualifying exigency (as defined by regulation) related to a spouse, son, daughter, or parent's active duty or notice of an impending call or order to active duty in the Armed Forces.

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41 When the husband and wife both work for LSU Eunice, the total amount (combined total)
42 of leave they may take is limited to 12 weeks if they are taking leave for the birth or
43 adoption of a child or to care for a sick parent.

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45 3. Servicemember Family Leave

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47 A spouse, son, daughter, parent, or next of kin is permitted to take up to 26 workweeks of
48 leave to care for a member of the Armed Forces, including a member of the National
49 Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is
50 otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a
51 serious injury or illness.

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53 During a 12-month period, an eligible employee shall be entitled to a combined total of 26
54 workweeks of leave under items 2 (e) and 3 above. For servicemember family leave,
55 when the husband and wife both work for LSU Eunice, the total amount (combined total)
56 of leave they may take is limited to 26 workweeks during a 12-month period.

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58 4. Advance Notice

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60 a. Foreseeable Events

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62 Employees are required to provide 30 days' advance notice, unless the "qualifying
63 event" is unforeseeable or a medical emergency. When the reason for the leave is
64 for medical treatment, such as chemotherapy, to the extent possible the treatment
65 schedule should be planned to cause as little disruption as possible to the
66 workplace. Such considerations must be negotiated with the employee prior to
67 designating the leave.

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69 b. Unforeseeable Events or Medical Necessity

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71 When it is impossible or impractical due to medical necessity to provide advance
72 notice, the leave will be granted conditionally and verbally based upon the
73 information provided by the employee. The employee will still be required to
74 provide the appropriate certification within 10 working days to the employer.

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76 Such emergency requests will be revoked if the certification does not support the reasons
77 originally provided. If the request is revoked, the employee may be required to repay the
78 leave and/or health coverage premiums, if applicable, and may be subject to disciplinary

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79 action.

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81 5. Medical Certification

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83 Employees requesting FMLA leave for serious health conditions (their own or a family
84 member's) will be required to provide medical certification to support their request. The
85 request for medical certification must be in compliance with guidelines of the U.S.
86 Department of Labor, Wage and Hour Division.

87
88 LSU Eunice may require medical certification prior to allowing the employee to return to
89 essential duties, especially if the reason for the leave is the employee's own disability. In
90 such cases, the employee must be advised at the onset of the leave that such certification
91 will be required.

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93 Medical records are protected by Federal Law and may not be maintained in the
94 employee's personnel file. Additionally, information pertaining to an employee's medical
95 condition may not be released to any individual without the employee's express written
96 consent. All medical information supporting the employee's FMLA request will be
97 maintained with the employee's FMLA request housed in the Office of Human Resources.

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99 6. Certification Related to Active Duty or Call to Active Duty

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101 LSU Eunice may require that a request for leave because of any qualifying exigency
102 specified in 2(e) above be supported by a certification issued at such time and in such
103 manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation
104 requiring such certification, the employee shall provide, in a timely manner, a copy of such
105 certification to the employer.

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107 7. Intermittent or Reduced Leave

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109 If leave is taken for birth or placement of a child for adoption or foster care, intermittent
110 leave or a reduced leave schedule may only be taken by mutual agreement between the
111 employee and the supervisor.

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113 In all other cases, intermittent leave or a reduced leave schedule may only be taken when
114 it is medically necessary or with supervisory approval.

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116 An employee on an intermittent or reduced leave schedule may be required to transfer to
117 an equivalent position if that position would better accommodate the leave schedule.

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118 Under such circumstances, the equivalent position must provide equivalent pay and
119 benefits and the employee must be qualified for the position.

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121 8. Return from Leave

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123 Upon return from FMLA leave, employees must be restored to their original or an
124 equivalent position with equivalent pay, benefits, and other conditions of employment. The
125 use of FMLA leave cannot result in the loss of any employment benefit that accrued prior
126 to the start of an employee's leave.

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128 9. Medical Health Coverage

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130 The University must maintain the employee's medical insurance coverage for the duration
131 of the FMLA leave under the conditions the coverage would have been provided if the
132 employee had continued working.

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134 In the case of leave without pay for FMLA purposes, the University will continue to pay the
135 employer portion and the employee's share of the premium. The employee's share is
136 subject to reimbursement by the employee.

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138 10. Cancellation of Medical Health Coverage

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140 When an employee is on leave without pay, if an employee's premium is more than 30
141 days late, all obligations of the University as to such coverage cease. Under these
142 circumstances, the University has the right to recoup any payments it has made.

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144 If, under these circumstances, the employee's health insurance coverage is canceled, the
145 employee will be reinstated to full health coverage upon their restoration to duty at the
146 same level that was provided prior to the leave. An employee may not be required to meet
147 any qualification requirements imposed by the health plan, including any new preexisting
148 condition waiting period, to wait for an open season, or to pass a medical examination to
149 obtain reinstatement of coverage.

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151 11. Questionable Certifications for Medical Leave

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153 If an employee submits a completed certification signed by a health care provider, the
154 employer may not request additional information from the employee's health care provider,
155 but may, through its health care provider request clarification and authentication of the
156 certification. If the employer doubts the validity of the certification, it may proceed as

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157 follows:

- 158
- 159 a. Second Opinion – With the approval of the Human Resource Office, the employee
- 160 may be required to be examined by a health care provider of the employer's
- 161 designation and at the employer's expense. If the second opinion does not agree
- 162 with the employee's certification, the employer can require a third opinion.
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- 164 b. Third Opinion – With the approval of the Human Resource Office, the employee
- 165 may be required to be examined by a health care provider mutually approved by
- 166 the employer and the employee at the employer's expense. The third opinion is
- 167 final and binding.
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169 **12. Unlawful Acts**

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171 It is unlawful for the University to interfere with, restrain, or deny the exercise of any right

172 provided under FMLA; or to discharge or discriminate against any person for opposing any

173 practice made unlawful by FMLA or for involvement in any proceeding under or relating to

174 FMLA.

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176 Any employee who believes a right granted under FMLA has been denied should contact

177 the Vice Chancellor for Business Affairs who will be responsible for resolving such

178 disputes.

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180 **13. Enforcement Agency**

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182 The U.S. Department of Labor, Wage and Hour Division, is authorized to investigate and

183 resolve complaints of FMLA violations.

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185 **Procedure**

186 Employees wishing to request FMLA leave should complete a leave slip, indicating "FMLA" in the

187 remarks section of the leave slip. The Office of Human Resources will complete the "University

188 Response to Employee Notification for FMLA" and send to employee. Additionally, the employee

189 is required to complete the FMLA-1 (medical certification form), if applicable. If the request is for

190 leave without pay, the employee is also required to complete a GI-1 form. Please refer to

191 Attachment A for a summary of processing requirements.

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193 Attachment A has been developed to assist employees in understanding their obligations with

194 respect to processing FMLA requests. The Office of Human Resources will be available to

195 provide support to any employee or department and answer questions concerning these

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196 procedures.

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198 Copies of the FMLA-1 and GI-1 forms are available in the Office of Human Resources.

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200 Sources: The Family and Medical Leave Act of 1993

201 Section 585 of the National Defense Authorization Act for FY 2008

Attachment A
SUMMARY OF FAMILY & MEDICAL LEAVE ACT PROCEDURES

RESPONSIBILITY	PROCEDURES
EMPLOYEE	<ol style="list-style-type: none"> 1. Complete leave slip indicating the number of hours needed. Indicate "FMLA" in the remarks section of the leave slip. 2. Indicate what type of paid leave is to be used (sick, annual, comp, leave without pay). 3. Have Dr. complete FMLA-1 form or submit certification on active duty of servicemember. 4. Submit to supervisor at least thirty days prior to date the leave is to begin.
DEPARTMENT	<ol style="list-style-type: none"> 1. Determine if the employee has been employed for twelve months prior to the beginning of the requested leave. 2. Determine that the employee has worked 1250 hours in the twelve month period immediately preceding the request (need not be consecutive hours). 3. Submit FMLA leave slip to appropriate Vice Chancellor. 4. Advise Human Resource Management of any changes in status after initial approval.
HUMAN RESOURCES	<ol style="list-style-type: none"> 1. Verify that the type of leave requested is available for use and accurate. 2. Provide employee with FMLA-1 form. 3. Advise HRM of any change in status after the original approval. 4. Post accurately all FMLA leave to leave tracking. 5. Notify Payroll if insurance coverage will be maintained or discontinued. 6. Advise employee of other benefits impacted by FMLA status.
VICE CHANCELLOR	<ol style="list-style-type: none"> 1. Determine if employee is qualified under the law. 2. Determine if reason for the requested leave is a "qualifying event". 3. Notify employee of disposition and conditions which may apply.

1. FMLA-1: A new form developed by Wage & Hour to obtain needed medical information to support FMLA request.
2. GI-1: A newly revised form to ensure the employee is advised of the option and conditions to continue insurance coverage.
3. Leave form and FMLA-1 must be submitted within 10 working days of notification of leave. Failure to provide timely documents could result in disciplinary action.
4. Because entitlement is for a one year period, all FMLA leave must be designated on leave tracking regardless of whether the leave is paid or unpaid.