



## **POLICY MANUAL**

### **BENEFITS**

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#### **Number 351**

**Subject: Family and Medical Leave**

**Covered Employees: University Employees**

**Date of Origin: January 24, 1997**

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#### **351.1 POLICY**

In compliance with federal regulations, Utah State University has established a policy regarding time off work which qualifies under the Family and Medical Leave Act (FMLA) of 1993. This policy operates in conjunction with the University's annual leave, sick leave, and personal leave without pay policies. All employees with appointments of 50% time or more in their regular assignments or who have worked 1,250 hours or more over the last 12-month period are eligible. Questions regarding how these policies work to the mutual benefit of the employee and the University should be directed to the Office of Human Resources.

#### **351.2 DEFINITIONS (Specifically For Use With This Policy)**

##### **2.2 Family Members**

Family members include the employee's spouse, child (natural, adopted, step, or foster), parent, and parent-in-law.

##### **2.3 Serious Health Condition**

A serious health condition is (1) a condition which requires an overnight stay in a hospital, hospice, or residential medical facility; (2) a condition requiring absence from work, school or other regular daily activities for more than three calendar days, and which requires continuing treatment by, or under the supervision of, a health care provider; or (3) a condition requiring continuing treatment for a chronic or long-term health condition which, if not treated, would result in an absence of more than three days. The University may require the employee to provide medical certification of the serious health condition of either the employee or the family member.

## **2.4 Continuing Treatment**

Continuing treatment is defined as (1) treatment on two or more occasions by a health care provider or by a paraprofessional under the supervision of a health care provider; (2) treatment on at least one occasion by a health care provider who thereafter supervises a regimen of continuing treatment (*e.g.*, a course of medication or therapy); or (3) treatment in the course of a long-term or chronic condition or disability requiring the continuing supervision, but not the active treatment, of a health care provider.

## **351.3 PROCEDURES**

### **3.1 Provisions**

An eligible employee may use paid leave (if available) and/or unpaid leave up to a maximum of 12 weeks during any 12-month period, for the following reasons:

- (1) The serious health condition of the employee, including continuing treatment.
- (2) The birth of a child or the placement of a child for adoption or foster care. The 12-week FMLA leave period must be completed within 12 months of the birth, adoption, or foster care placement of the child.
- (3) The care of the employee's family member due to a serious health condition.

The 12-month period begins on the first day of a FMLA qualifying leave. Even if an employee experiences more than one of these events in a 12-month period, only a total of 12 weeks FMLA leave will be granted. Additional leave (paid or unpaid) may be granted according to the provisions of the University's annual, sick, and leave without pay policies.

### **3.2 Intermittent Leave**

The 12 weeks of FMLA leave are not required to be used consecutively. FMLA leave may be taken on an intermittent or reduced hour basis if medically necessary for an employee's or family member's serious health condition, or for the care of a child who has been born, adopted, or placed for foster care. Employees should make all reasonable efforts to schedule such leave in advance.

### **3.3 Paid Leave During FMLA Leave**

- (1) Paid sick/annual leave.

The employee may use any accumulated sick and/or annual leave during a FMLA leave according to the provisions of the University's sick and annual leave policies. In all other situations, leave without pay will apply.

(2) Short-term disability usage during FMLA leave.

If an employee is enrolled in the short-term disability program, he or she may receive short-term disability benefits during the FMLA leave according to the provisions of the short-term disability policy.

(3) Worker's compensation leave.

An absence from work due to an on-the-job injury or illness which qualifies as a worker's compensation absence also qualify as an FMLA absence.

### **3.4 Benefit Continuation During FMLA Leave**

The University will continue health benefits (medical and dental insurance coverage) for benefit-eligible employees during any paid or unpaid FMLA leave on the same basis as for active employees.

The regularly deducted premiums due for medical and dental coverage during periods of unpaid FMLA leave will be collected according to existing procedures for premium payment during an approved leave without pay. Employees will be contacted by the Office of Human Resources regarding provisions for payments.

The University will retroactively charge the employee for the University's portion of the medical and/or dental premiums during an unpaid FMLA leave if the employee does not return to work after the FMLA leave for reasons other than the continuation of a serious health condition or for other reasons beyond the control of the employee. Employees are considered as having returned to work after being back at work for at least 30 days.

The flexible spending account (FSA) program is governed by specifications of the FSA plan. The Office of Human Resources will inform employees regarding payment provisions for continuation of the FSA plan during FMLA leave.

Nonhealth care benefits may be continued during an unpaid FMLA leave according to the current practice for any employee on an approved leave without pay.

### **3.5 Reinstatement of Position and Benefits**

The University guarantees to return the employee to the previous position, or a position of similar status, seniority, and pay, after the FMLA leave. Upon return to work, no proof of insurability or pre-existing condition clause will apply to the employee to return to the same level of benefit coverage that he or she was enrolled in before the FMLA leave. This provision will apply even if the employee waived the coverage during the period of an unpaid FMLA leave.

### **3.6 Medical Certification**

The employee's department may require an employee to have a health care provider certify his or her need for medical leave, or the need for the medical care of a spouse, child, or parent. The department must notify the employee of the need for this certification when the employee requests FMLA leave.

### **3.7 Fitness for Duty Requirement**

The employee's department may require the employee to provide a Fitness for Duty certification before the employee returns to work. The employee will be notified of this requirement by the department when the FMLA leave is requested (or immediately after the FMLA leave begins). Fitness for duty examinations, if required, must be job-related and paid for by the requesting department.

### **3.8 Pre-tenure Probationary Period**

When a tenure-eligible faculty member is on FMLA leave in an academic year, the faculty member's department head or supervisor and dean, director, or vice president may recommend a hiatus from the faculty member's pre-tenure probationary period, equal to the duration of the FMLA leave. The Provost must approve the hiatus.

## **351.4 RESPONSIBILITY**

### **4.1 Department Heads and Supervisors**

Responsible for granting appropriate leaves, managing job vacancies, and immediately notifying the Personnel Services Office of requests for FMLA leave.

### **4.2 Office of Human Resources**

Responsible for assisting with the implementation and administration of this policy and for maintaining required employee documentation necessary for requesting and processing leaves. It is also responsible for decisions about second and third opinions, ensuring all employees are aware of the Family and Medical Leave Policy, and posting the federal notice of the Family and Medical Leave Act of 1993.

### **4.3 Employees**

Responsible for providing as much notice as possible when requesting leave, complying with requests for documentation, maintaining contact with their supervisors, and returning to work as scheduled.

### **Request forms for FMLA:**

- [Certification of Health Care Provider](#)
- [Employer Response to Employee Request](#)
- [Request Form](#)