

University Policy 3101: Family and Medical Leave Act (FMLA)

Category: Human Resources

Subcategory: Benefits

Covered Individuals: Benefit-eligible Employees

Responsible Executive: Vice President for Finance and Administrative Services

Policy Custodian: Office of Human Resources, Associate Vice President of Human Resources

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Previous USU Policy Number: 351: Family and Medical Leave Act (FMLA)

3101.1 PURPOSE AND SCOPE

In accordance with the Family and Medical Leave Act (FMLA), Utah State University (USU) provides up to 12 workweeks of unpaid, job-protected leave for eligible employees. This policy provides a general description of employee FMLA rights and responsibilities. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

Where applicable, this policy runs concurrently with USU's Vacation Leave, Sick Leave, Organ Donor Leave, Military Leave, Workers Compensation Leave, Short-term Disability Leave, Parental Caregiving with Modified Duties (PCMD) Leave, and Leave without Pay policies.

3101.2 POLICY

2.1 Family Medical Leave Provisions

An eligible employee may take leave for up to a maximum of 12 workweeks during a rolling 12-month period, for the following qualifying events:

- A serious health condition which makes the employee unable to perform the essential functions of their job.
- The birth of a child or the placement of a child for adoption or foster care with the employee. The 12-workweek FMLA leave period must be completed within 12 months of the birth, adoption, or foster care placement of the child. When both spouses work for USU, and each spouse is eligible to take FMLA leave, the FMLA limits the combined amount of leave they may take for some qualifying leave reasons.
- To care for a family member who has a serious health condition.
- For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active duty status.

The rolling 12-month period begins on the first day of FMLA-qualifying leave. If an employee experiences more than one qualifying event in a rolling 12-month period, only a total of 12 workweeks of FMLA leave will be granted.

When an employee is off work for more than three (3) consecutive working days, or needs leave that involves inpatient care or continuing treatment by a health care provider, the employee must notify the Office of Human Resources. HR will coordinate with the employee to determine whether the employee's absence qualifies for FMLA.

2.2 Military Caregiver Leave Provisions

An eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for a family member who is a Covered Service Member for serious injury or illness. The single 12-month period for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. (See USU [Policy 3103: Military Leave](#) for other applicable definitions.)

The 26 workweeks of military caregiver leave run on a separate FMLA year that commences with the first day that leave is taken and can run forward until the end of that 12-month period. Any combination of FMLA leave may not exceed the maximum limit of 26 workweeks in that single 12-month period. Unused military caregiver leave is forfeited at the end of that 12-month period. If both spouses work for USU, the military leave is limited to a combined total of 26 workweeks in that single 12-month period.

2.3 Intermittent Leave

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. Leave due to military qualifying exigencies may also be taken on an intermittent basis. Employees should make all reasonable efforts to schedule such leave in advance.

2.4 Paid Leave During FMLA Leave

Approved FMLA leave will run concurrently with applicable USU paid leaves. An employee must use the following types of accrued paid leave (as applicable) before unpaid leave will begin for an eligible FMLA event.

- Sick Leave
- Vacation Leave
- Short-term Disability Leave
- Organ Donor Leave
- Worker's Compensation Leave
- Parental Care and Modified Duties (PCMD) – Faculty Only

A faculty member who applies for PCMD must apply for FMLA leave during the same semester. FMLA leave under this policy will run concurrently with PCMD (see [USU Policy 3111: Parental Caregiving with Modified Duties \(PCMD\)](#)), if applicable. A faculty member may not be eligible for PCMD if FMLA leave has already been exhausted for the birth or adoption of a child.

2.5 Benefit Continuation During FMLA Leave

USU 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 active employees.

The employee's premiums for medical and dental coverage during periods of unpaid FMLA leave will be collected according to existing procedures for premium payments during approved leave without pay. The Office of Human Resources will contact employees regarding provisions for payments.

USU's obligation to maintain health care coverage ceases if an employee's premium payment is more than 30 days late.

USU may retroactively charge the employee for the university's portion of the medical and dental benefit 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.

During FMLA leave, the flexible spending account (FSA) program is governed by specifications of the FSA plan.

Employer retirement contributions will be discontinued while the employee is on unpaid FMLA leave.

2.6 Reinstatement of Position and Benefits

After an approved FMLA leave, USU will restore the employee to the previous position, or a position of equivalent status, seniority, benefits, and pay.

Employees who may need an accommodation in order to return to work may consult with the Americans with Disabilities (ADA) coordinator in the Office of Human Resources.

2.7 Medical Certification

USU will require an employee to have a health care provider certify their need for medical or military caregiver leave, or the need for the medical care or medical caregiver leave of a family member within 15 days of the request for FMLA leave. The employee will be notified of the need for this certification when the employee requests FMLA leave.

By applying for FMLA leave, the employee grants permission to HR to contact the employee's health care provider to authenticate or clarify the certification form.

USU may require employees to obtain a second opinion at the university's expense. If the opinions of the initial and second health care providers differ, USU may, at its expense, require employees to obtain a third, final and binding certification from a health care provider.

An employee may be requested to recertify a serious health condition every 30 days (if the employee is absent during that period) for chronic/long-term illness.

2.8 Return to Work Certification Requirement

USU will require the employee to provide a Return to Work certification before the employee returns to work, if the leave was for their own serious medical condition. The employee will be notified of this requirement when the FMLA leave is requested (or immediately after the FMLA leave begins).

2.9 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 may recommend a hiatus from the faculty member's pre-tenure probationary period, equal to the duration of the FMLA leave. All requests must be submitted to the Provost's Office. (See USU [Policy 4004.1.4\(3\) & \(4\)](#): Tenured and Term Appointment: Evaluation, Promotion, and Retention)

3101.3 RESPONSIBILITIES

3.1 Department Heads and Supervisors

Manage job vacancies and coordinate information with the Office of Human Resources when an employee has been absent for three (3) or more days for a qualifying FMLA event and/or is on approved FMLA leave.

3.2 Office of Human Resources

Determine and notify employee of FMLA leave eligibility, determine qualifying events, assist with the implementation and administration of this policy, and maintain required employee documentation necessary for requesting and processing leaves. Make decisions about medical opinions, ensure all employees are aware of the FMLA Leave policy, and post the federal notice of the Family and Medical Leave Act of 1993 and its amendments.

3.3 Employees

Provide as much notice as possible when requesting leave (30 days, if practicable), comply with requests for documentation, maintain contact with supervisors, and return to work as scheduled.

Submit the [FMLA leave request form](#) if absent from work for more than three (3) consecutive work days or if the employee needs leave that involves inpatient care or continuing treatment by a health care provider.

When planning medical treatment related to FMLA leave, employees should work with their supervisor and HR to meet the employee's treatment needs while minimizing impact to department operations.

Notify your supervisor and the Office of Human Resources regarding your intent to return to work as soon as it is known.

3101.4 REFERENCES

- N/A

3101.5 RELATED USU POLICIES

- [USU Policy 3100: Vacation Leave](#)
- [USU Policy 3102: Leave without Pay](#)
- [USU Policy 3108: Disability Insurances](#)
- [USU Policy 3103: Military Leave](#)
- [USU Policy 3104: Sick Leave](#)
- [USU Policy 3109: Worker's Compensation](#)
- [USU Policy 3111: Parental Caregiving with Modified Duties \(PCMD\)](#)
- [USU Policy 3105: Other Leave](#)
- [USU Policy 4004.1.4\(3\) & \(4\): Tenured and Term Appointments: Evaluation, Promotion and Retention](#)

3101.6 DEFINITIONS (Specifically for use with this policy)

6.1 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 continuing supervision, but not active treatment, by a health care provider.

6.2 Covered Service Member

A covered service member is one of the following:

- 1) A 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.

2) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy.

6.3 Eligible Employee

USU employees who have worked for USU for at least 12 months, and have worked at least 1,250 hours during the 12-month period immediately preceding the leave.

6.4 Family Members

Family members include the employee's spouse, dependent child (birth, adopted, step, or foster), and parent. For the purposes of this policy a dependent child is under the age of 18 years (over the age of 18 years if incapable of self-care because of a mental or physical disability).

6.5 Serious Health Condition

A serious health condition is 1) a condition which requires in-patient 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 consecutive working 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 consecutive working days. USU will require the employee to provide medical certification of the serious health condition of either the employee or the family member.

Information below is not included as part of the contents of the official policy. It is provided only as a convenience for readers/users and may be changed at any time by persons authorized by the president.

RESOURCES

Procedures

- N/A

Guidance

- N/A

Related Forms and Tools

- N/A

Contacts

- N/A

POLICY HISTORY

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