



Policy # 53022

FAMILY MEDICAL LEAVE

Effective Date: October 17, 2002

Revised Date: July 1, 2019

Responsible Office: Human Resources

Division: Finance

I. PURPOSE/OBJECTIVE

To provide a uniform procedure to comply with the provisions of the Family Medical Leave Act (FMLA) and assign responsibility for aspects of the policy.

II. STATEMENT OF POLICIES

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve work weeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or**

Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

The reasons for the FMLA leave shall be referred to as "qualifying events". If approved for Family and Medical Leave Act leave and employees do not have eligible leave, they will be placed on Leave Without Pay (LWOP) status during the approved FMLA leave period.

A. ELIGIBLE EMPLOYEES

Employees who have been employed for at least twelve (12) months and have actually worked 1,250 hours in the preceding twelve-month period are eligible for FMLA leave.

B. ELIGIBLE FAMILY MEMBERS

1. Husband or wife as defined or recognized in the state where the employee was married and includes individuals in a same-sex marriage or common law marriage.

2. A biological, adoptive, step or foster father or mother, or someone who stood *in loco parentis* to the employee when the employee was a son or daughter. Parent for FMLA purposes does not include in-laws.
3. A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age, or 18 or older and incapable of self-care because of a mental or physical disability.

C. QUALIFYING EVENTS

An “eligible” employee may receive leave for one or more of the following reason:

1. birth of a child and to care for the newborn child within one year of birth; the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
2. to care for the employee’s spouse, child, or parent who has a serious health condition;
3. a serious health condition that makes the employee unable to perform the essential functions of his or her job;
4. any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” **or**
5. to care for a covered service member with a serious injury or illness if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

D. Calendar – An employee may use 12 weeks FMLA leave per calendar year.

E. ADVANCED NOTICE REQUIREMENTS

1. Foreseeable Events-Employees are required to provide at least thirty (30) days advanced notice, unless the “qualifying event” is unforeseeable or a medical emergency.
2. Unforeseeable Events or Medical Necessity-When it is impossible or impracticable due to medical necessity to provide advanced notice, the leave will be granted conditionally and verbally based on information provided by the employee. However, the employee will still be required to provide the appropriate certification within fifteen (15) working days to the supervisor. Such emergency requests shall be revoked should the certification not support the reasons originally provided. Should the request be revoked, the employee may be required to repay the leave and/or health/life insurance premiums, if applicable and/or may be subjected to disciplinary action.

F. MEDICAL CERTIFICATION

The appropriate certification form(s) shall be completed by the employee, certified by a physician/medical provider, approved by a FMLA Committee and notification of eligibility will be sent by a representative in the Office of Human Resources. If possible,

the form should be submitted thirty (30) days prior to the effective date of leave. (See E. 2. for Unforeseeable Events or Medical Necessity).

The University may require a second medical opinion at no cost to the employee. If the first and second opinions differ, the University may require a third binding medical opinion approved jointly by the University and the employee, at no cost to the employee. Periodic recertification by the health care provider may also be required.

The University may require a medical statement from the physician/medical provider, releasing employee to return to work when they have been out due to their own medical condition. Medical records are protected by Federal Law. All medical information /documentation supporting the employee's FMLA request for leave shall be confidentially maintained in the Office of Human Resources.

G. INTERMITTENT OR REDUCED LEAVE

Intermittent leave or reduced leave schedule will only be allowed because of foreseeable medical treatment such as therapy treatments, chemotherapy, etc. which are needed by the employee, spouse, child or parent. In these cases, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the workplace.

If intermittent or reduced leave is taken by an employee, the University may require that the employee be reassigned to an alternate position which better accommodates recurring periods of absence or may require a part-time schedule, provided that the position has equivalent pay and benefits.

H. MEDICAL HEALTH COVERAGE

The University will pay the employer part of medical insurance coverage while the employee is on paid leave and will also pay the employer's share while the employee is on FMLA without pay. Employees on leave without pay must contact the Coordinator of Benefits in the Office of Human Resources, Long-Jones Hall, Room 152 for information of coverage continuation.

In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence, the employer may recover from the employee the cost of any payments made for the employee's coverage unless said failure to return was for reasons beyond the employee's control.

I. UNLAWFUL ACTS

It is unlawful for any employee of the University to the interfere with restrain or deny the exercise of any right provided under FMLA; or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA. Any employee who believes they have been denied a right granted under FMLA should contact the Associate Vice President for Human Resources in the Office of Human Resources, Long-Jones Hall, Room 148.

J. RETURN FROM LEAVE/BENEFITS

Upon return from FMLA leave, employees will not lose any employment benefit that accrued prior to start of an employee's leave.

K. LEAVE USAGE

Leave shall be used in the following order:

- Classified-Sick, Compensatory, Payable Compensatory, Annual;
- Unclassified-Sick, Compensatory, Annual;
- Faculty-Sick

L. TRACKING OF FMLA LEAVE

The Office of Human Resources will be responsible for tracking the twelve (12) to twenty-six (26) weeks of FMLA leave for each eligible employee.

M. FMLA LEAVE AND EMPLOYEES ON WORKERS COMPENSATION LEAVE

FMLA leave will run concurrently with Workers Compensation Leave. All employees on workers compensation leave must fill out the appropriate Grambling State University leave form and the Health Care Provider Certification form. The original Health Care Provider Certification form and a copy of the leave form should be forwarded to the Human Resources Analyst in the Office of Human Resources. A copy of the leave form should be maintained in the departmental employee file the original to Payroll as usual.

N. EMPLOYEE/SUPERVISOR RESPONSIBILITIES DURING FMLA LEAVE

1. The Supervisor or designee will submit a timesheet for the employee on FMLA Leave per the current payroll identification and due date schedule
2. If the employee is on FMLA leave for his/her own health conditions, he/she should not report to work, meetings or any other work related activity until the doctor has released him/her to return to work
3. Employee must bring a doctors' release, before reporting to work

Definitions

Serious health condition

(a) For purposes of FMLA, “serious health condition” entitling an employee to FMLA leave means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider

(b) The term “incapacity” means inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefore.

(c) The term “treatment” includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(d) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of this section are met.

Inpatient care. Inpatient care means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care.

Continuing treatment. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(a) ***Incapacity and treatment.*** A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- (1) Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
- (2) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.
- (3) The requirement in paragraphs (a)(1) and (2) of this section for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity.
- (4) Whether additional treatment visits or a regimen of continuing treatment is necessary within the 30-day period shall be determined by the health care provider.
- (5) The term “extenuating circumstances” in paragraph (a)(1) of this section means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the 30-day period, but the health care provider does not have any available appointments during that time period.

(b) ***Pregnancy or prenatal care.*** Any period of incapacity due to pregnancy, or for prenatal care.

(c) ***Chronic conditions.*** Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

- (1) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- (d) ***Permanent or long-term conditions.*** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(e) ***Conditions requiring multiple treatments.*** Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for:

- (1) Restorative surgery after an accident or other injury; or
- (2) A condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

(f) Absences attributable to incapacity under paragraph (b) or (c) of this section qualify for FMLA leave even though the employee or the covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has

advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.