

# **SICK LEAVE POLICY PURSUANT TO FAMILY MEDICAL LEAVE ACT OF 1993**

## **Leave period**

The Family Medical Leave (FML) Act guarantees employees a maximum of 12 weeks of leave during a 12-month period without job jeopardy.

## **Employee eligibility**

The University will grant FML to qualifying employees who:

- Have been employed by the University for 12 months prior to the request for FML.
- Worked a minimum of one thousand two hundred and fifty (1250) hours during the preceding year to become eligible for FML.
- The 12 month period for purposes of FML shall be determined for each employee's request using a rolling 12 month period measured backward to the date an employee commences FML.
- Spouses working for the University are entitled to a unit of 12 weeks per incident between the spouse/employees.

## **FML Categories**

FML shall be granted for the following categories of leave spelled out in the FML Act.

- Birth of a child and to care for the child. Expectant mothers may take FML before the birth of the child for prenatal care or if her condition makes her unable to work.
- Adoption or foster care placement of a child in the employee's home.
- Family leave: provide care for spouse, son, daughter or parent of employee.
- Serious health condition making the employee unable to perform their job.

## **Employee FML notice requirement**

Employees must:

- Give a minimum of thirty (30) days notice when the need for FML is foreseeable.
- Give notice as soon as practicable when emergency need arises (within 2 business days).
- Supply sufficient information for the employer to grant the requested leave.

## **Medical certification**

The University will require medical certification for the employees' own serious health condition or the serious health condition of the employee's family.

- When leave is foreseeable, and thirty (30) days notice has been given to the University by the employee, the employee shall provide medical certification when requesting the FML or as soon as possible, before the FML begins.
- When leave is not foreseeable, the employee must provide medical certification with fifteen (15) days of the request for FML.

If the University questions the validity of a medical certification, the University may require the employee to obtain a second opinion. A health care provider selected or agreed upon by the University shall give the second opinion. The costs of the second opinion shall be borne by the University, and shall extend only to the costs necessary to validate or invalidate the original medical certificate. If the second and first medical certification differ, the University or the employee may seek a third opinion. The party seeking the third opinion shall bear the costs of the same.

## **Paid v. unpaid leave**

The University will require the employee to utilize available sick leave and vacation leave earned by the employee during FML. If such leave is not sufficient to cover the entire FML, the remainder of the leave will be unpaid. Employees on FML may be required to pay health insurance premiums during the absence.

## **Amount of Leave**

An eligible employee is entitled to a total of 12 workweeks of leave during a 12-month period. The 12-month period begins when the FML begins. FML may take the form of one continuous leave, a reduced work schedule or intermittent leave. In the case of intermittent leave or reduced work schedule, the University may require the employee to transfer temporarily to an alternative position for which the employee is qualified and better accommodates recurring periods of leave than the employees regular position.

## **The University will provide, in writing, the following information:**

1. Notice leave will be counted against employee's FMLA entitlement.
2. Requirements for medical certification.
3. The University will require the use of paid leave, (Paid leave used under FMLA can be sick leave or vacation leave.)
4. Requirements for making health insurance payments, if required, and consequences for failing to make the same.
5. Requirements for a "return to duty certificate" to return to employment following an employee's absence for his or her own serious health condition.
6. Employee's status as a "key" employee - if applicable.

7. Employee's right to job restoration upon end of leave.
8. Employee's potential liability if employer makes the employee's health insurance payments while the employee is on FMLA leave and employee fails to return to work.

### **Return to Work Certification**

An employee who is granted leave for the employee's own serious health condition shall be required to present a medical certification that the employee may return to work.

### **Reinstatement**

Upon return from FML, the employee is entitled by law to be returned to the same position the employee held when leave commenced or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. An employee has no greater right to reinstatement than if the employee had been continuously employed during the FML period. An employee is not entitled to reinstatement if the employee's appointment end date occurs before the scheduled FML return date.

### **Notice**

Employees are entitled to use accumulated sick leave in excess of FML. The protections of FMLA may not apply to leave in excess of twelve (12) weeks.

*Adopted by Cabinet 03/09/00*