

Purpose:

To provide employees with a consistent and uniform process for medical leaves of absence. This policy meets and/or exceeds the requirements of the Family and Medical Leave Act of 1993, as amended January 2008, and its implementing regulations effective January 16, 2009.

Policy:

An eligible employee may take up to 12 work weeks of Family and Medical Leave (FML) within any 12 month rolling period and be restored to the same or to an equivalent position upon their return. Qualifying employees may take up to 26 workweeks in a 12 month period for Military Caregiver Leave. This leave is calculated using the 12 month period from the date Military Caregiver Leave begins, not the usual 12 month rolling period.

- To be eligible for FML under this policy, an employee must have been employed by The University of Alabama for at least 12 months and must have worked 1,250 hours in the previous 12 months.
- The 12-month rolling period is measured backward from the date the employee uses any FML.
- Employees may elect, at their discretion, to use any accrued sick, annual or compensatory time at the onset of leave in accordance with established policy. The use of any and all accrued paid leave will be included in the 12 weeks of Family and Medical Leave and will not extend the duration of the leave beyond 12 weeks.
- If an employee does not have any sick, annual, or compensatory leave time available or has elected not to use such leave time, the remaining leave or portion thereof will be unpaid.
- Time off for on-the-job injuries (OJI's) and long term disability (LTD) runs concurrently with FML.
- Excluding Military Caregiver Leave which is 26 weeks, the maximum FML allowed in a rolling 12 month period is 12 work weeks whether paid, unpaid or a combination of both statuses. All leave must be taken at the employee's normal FTE rate.
- If an employee would otherwise be required to work mandatory overtime, then the time counts against the 12 week Family and Medical Leave allocation.
- Eligible faculty members should also refer to the Faculty Handbook for additional leave information.

Reasons for Family and Medical Leave:

1. Birth and care of the employee's child
2. Placement of a child with the employee for adoption or foster care
3. Serious health condition of the employee

4. Serious health condition of the employee's spouse, dependent child or parent;
5. Military Caregiver Leave to care for the employee's spouse, child, parent, or next of kin
6. Military Qualifying Exigency

FML for reasons 1 or 2 must be completed within the 12 month period beginning on the date of the birth or placement of a child and must be taken in a continuous period without intermittent breaks. If the employee is requesting leave for the birth of a child, two separate applications may need to be completed; one for the employee's own serious health condition and the second for care/placement (i.e. bonding) with the newborn child, as such leaves are administered separately.

The use of sick leave is not available during the care/placement period as it does not meet the criteria set forth in the sick leave policy. Employees must submit documentation showing the date of adoption or foster care placement and pertinent information from the appropriate agency to the University's FML Administrator. Spouses who both work at the University and who request leave for reasons 1 or 2 are jointly limited to a total of 12 work weeks of Family and Medical Leave.

Cases of a death, birth, adoption and/or placement of a child for adoption may also require making changes to benefits. An employee must complete and return the appropriate documentation to the HR Service Center within 30 days of the event. Failure to complete the necessary documentation within the specified timeframe will result in the employee having to wait until the annual open enrollment period to make changes to his/her benefits. Changes may also be made within 30 days of any subsequent qualifying life event.

FML is not intended to cover short-term illnesses that do not meet the definition of a serious health condition where treatment and recovery times are brief.

Some serious health conditions may also qualify as a covered disability under ADA for which the University would, absent undue hardship, provide a qualified employee a reasonable accommodation. If an employee has an impairment that substantially limits a major life activity, he or she should contact the ADA Administrator at the HR Service Center.

Definitions:

A serious health condition is defined on the Certification of Health Care Provider Form as an illness, injury, impairment or physical or mental condition that involves one of the following:

1. Hospital Care

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

Incapacity is defined to mean inability to work, to attend school or to perform other regular

daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

2. Absence Plus Treatment

A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

(a) Treatment two or more times, within 30 days of the first day of incapacity by a healthcare provider, by a nurse or physician's assistant under direct supervision of a healthcare provider or by a provider of healthcare services (e.g., physical therapist) under orders of, or on referral by, a healthcare provider, provided that the first visit to the healthcare provider takes place within seven days of the first day of incapacity and the second visit takes place within 30 days, unless circumstances beyond employee's control prevents the second visit from occurring within this 30 day period (i.e., no available appointments during that time period); or

(b) Treatment by a healthcare provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the healthcare provider, provided the first visit to the healthcare provider takes place within seven days of the first day of incapacity.

Treatment includes 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. A regimen of treatment does not include 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 healthcare provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments

A chronic condition which:

(a) Requires periodic visits for treatment, at least two visits per year, by a healthcare provider, or by a nurse or physician's assistant under direct supervision of a healthcare provider;

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition);

(c) May cause episodic rather than a continuing period of incapacity (e.g., diabetes, epilepsy, etc.)

5. Permanent/Long-term Conditions Requiring Supervision

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 healthcare provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or referral by, a healthcare provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

Military Caregiver Leave to care for the employee's spouse, child, parent, or next of kin

Leave may be taken by eligible employees to care for a covered service member or covered veteran (collectively, a "Military Member") with a "serious injury or illness" who is that employee's spouse, child, parent or next of kin (defined as the service member's nearest blood relative).

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation, or therapy, **or** is in outpatient status, **or** is on the temporary disability retired list for a serious injury or illness.

A covered veteran is 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, National Guard or Reserves and who was discharged or released under conditions other than dishonorable within, in most cases, five years of requiring care

For a covered service member, a "serious injury or illness" is defined as an injury or illness that is incurred in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

For a covered veteran, a "serious injury or illness" is defined as an injury or illness that was incurred in the line of duty on active duty, and that is either:

- A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank or rating; or
- A physical or mental condition for which the veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of 50 percent or great, and the need for military caregiver leave is related to that condition; or
- A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or
- An injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

A Military Member's serious injury or illness also includes injuries or illnesses that existed before the Military Member's active duty and were aggravated by service in the line of duty on active duty.

This FML leave does not apply to care for former members of the armed forces who are on the permanent disability list.

An eligible employee caring for a Military Member with a serious illness or injury is eligible for up to 26 work weeks of FML military caregiver leave within a 12 month period, calculated using the 12 month period beginning on the first day the military caregiver leave begins. If the employee needs to care for more than one Military Member or the original Military Member has a subsequent injury, the employee may be entitled to take an additional period of 26 weeks of leave in a different 12-month period, but the individual cannot take more than 26 work weeks for the same illness or injury for a single Military Member. Regular FML (i.e., for the individual's own serious health condition or for the care of a non-service member) is still limited to 12 work weeks, and "qualified exigency" leave does not qualify for the 26 weeks military caregiver leave. An eligible employee is limited to a *combined* maximum total of 26 workweeks of leave for any FML-qualifying reasons during the single 12-month period.

Military qualifying exigency for Covered Active Duty Leave

Eligible employees may take leave for "qualifying exigencies" arising when the employee's spouse, son, daughter or parent is on covered active duty, called to covered active duty status, or has been notified of an impending call or order to covered active duty (the "covered service member").

For members of the Regular Armed Forces, covered active duty is duty during deployment of the covered service member with the Armed Forces to a foreign country.

For covered service members of a Reserve component of the Armed Forces (members of the National Guard and Reserves), covered active duty is duty during deployment of the

covered service member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.

Deployment to a foreign country means deployment to areas outside of the United States, the District of Columbia, or any Territory or possession of the United States. It also includes deployment to international waters.

This leave is limited to 12 work weeks in the normal FML 12-month rolling period.

Certification is required for leave taken due to a qualifying exigency. An employee may contact the University's FML Administrator to discuss certification requirements.

"Qualified exigencies" are defined to include the following:

1. **Short-notice deployment.** Leave can be taken to address issues that arise from the fact that a covered service member is called to covered active duty with notice of seven days or less prior to deployment. This leave can be taken only during the seven day or less period during which the covered service member receives notice of deployment.
2. **Military events and related activities.** Leave can be taken to attend official military events, for family support or assistance programs, and informational briefings related to the call of the covered service member to covered active duty.
3. **Childcare and school activities.** Leave can be taken for a variety of childcare and school related reasons for a child, legal ward or stepchild of a Covered Servicemember, such as to provide child care on an emergency basis (but not a routine, regular, or every day basis), to enroll a child in school, or to attend school meetings for the child where the leave is necessitated by the covered active duty or call to covered active duty of the Covered Servicemember.
4. **Parental Care.** Leave can be taken for certain activities arising from the covered service member's covered active duty related to care of the covered service member's parent who is incapable of self care. Examples are: arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility, and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers.
5. **Financial and legal arrangements.** Leave can be taken to make financial or legal arrangements to address the covered service member's absence while on covered active duty, or to act as the covered service member's representative for purposes of obtaining military service benefits. Leave can be taken only to obtain military service benefits while the covered service member is away on covered active duty or within 90 days of termination of that covered active duty.
6. **Counseling.** Leave can be taken to attend counseling by someone other than a healthcare provider for the employee, the covered service member, or a child of the covered service member (child, legal ward or stepchild), provided that the need for counseling arises from the military service.
7. **Rest and recuperation.** Leave can be taken to spend time with a covered service member who is on a short-term, temporary, rest and recuperation leave during the period of deployment. This leave is limited to 15 days for each military rest and recuperation visit.
8. **Post-deployment activities.** Leave can be taken to attend the covered service member's post-deployment functions, such as arrival ceremonies or reintegration briefings, that occur within 90 days following the termination of the covered active

duty status, or to address issues that arise from the death of the covered service member, such as making funeral arrangements.

9. **Additional activities.** Leave may be allowed to address other events which arise out of the covered service member's covered active duty or call to covered active duty status *provided that the appropriate UA supervisor and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.*

Procedure:

1. An eligible employee who requests Family and Medical Leave must apply for the leave by completing an FML Request Form. Forms are available in the Human Resources Service Center (G-69 Rose Administration Building) or on the Human Resources website at <http://hr.ua.edu/forms/family-medical-leave-request-form.doc>. When the need for leave is foreseeable, the employee must apply in advance and must give 30 days advance written notice, unless 30 days notice is not practicable.

If the employee is requesting leave for the birth of a child, two separate applications may need to be completed; one for the employee's own serious health condition and the second for bonding with the newborn child, as such leaves are administered separately. If the need for leave is unforeseen, the employee must provide such notice as is practical, which means following one's supervisor's usual and customary notice call-in procedures for reporting an absence, unless unusual circumstances exist. The form must be filled out completely, including the supervisor's signature, and returned to the HR Service Center (Box 870364, G-69 Rose Administration Building). The employee should advise the supervisor or the appropriate designee within **two business days** upon returning to work that the reason for his or her leave was covered by FMLA. Otherwise, the employee may not be entitled to assert FMLA protections.

2. For Family and Medical Leave requested due to a serious health condition of the employee or of the employee's spouse, child, or parent, the employee must have the relevant healthcare provider supply the appropriate medical certification. The Certification of Healthcare Provider Form, which is available in the HR Service Center or on the HR website at <http://www.dol.gov/regs/compliance/whd/fmla/wh380.pdf> should be completed and returned directly to the HR Service Center (Box 870364, G-69 Rose Administration Building) within 15 days following the request for leave. If the certification is rendered incomplete, the employee will have 7 days to submit the clarified and completed form.

Failure to do so within this timeframe may result in the denial of the leave. This form is not required when an employee is using FML for the care of a newborn child, adoption or placement of a child.

Failure to provide requested medical certification in the allotted time may result in a delay in the effective date of Family and Medical Leave coverage or in disciplinary action up to and including termination, for unexcused or excessive absenteeism in accordance with University policy.

The University may require, at its expense, a second medical opinion. The University may designate the healthcare provider who will furnish this second opinion. If the second opinion differs from the original medical certification, the University, at its expense, may require a third binding opinion from a healthcare provider who is mutually

agreed upon by the University and the employee. The University may also require medical recertification of a serious health condition not to exceed once every 30 days, unless the original period of incapacity exceeds 30 days, in which case the University may request re-certification at the end of the initial period of incapacity. This information must be provided by the date requested. Failure to provide the requested recertification in the allotted time may result in a delay of further Family and Medical Leave coverage or in disciplinary action up to and including termination, for unexcused or excessive absenteeism in accordance with University policy.

3. It is the responsibility of individual departments to define how an employee should communicate to their supervisor regarding their Family and Medical Leave status and their intent to return to work. At a minimum, the employee should report to their supervisor each 30 days while on leave. The employee is responsible for notifying their supervisor in advance each time an absence is covered by FML based on the medical certification provided. The employee is required to follow the department's usual and customary call-in procedures for reporting an absence, unless unusual circumstances exist. An employee must reapply and recertify if the type of leave circumstances described by the original certification have changed significantly (for example, the duration or frequency of absences, the nature of the illness, complications, etc.). In addition, the employee must notify their supervisor and the FML Administrator in Human Resources prior to expiration of their approved leave if the dates of the leave change or need to be extended. An employee who is released to return to work earlier than expected must provide at least 3 working days advance notice to the supervisor.
4. Family and Medical Leave may be taken on an intermittent basis for a serious health condition. An employee who requires intermittent or reduced-schedule leave may be required by their supervisor to schedule their leave in a way that will minimize disruption of their unit's operation. The University reserves the right to verify that the intermittent leave must be taken at the specific time(s) that the employee requests. An employee who uses intermittent leave will be required to complete and submit an Intermittent FML Leave Report. For non-exempt employees this report must be signed by their supervisor and turned in with the bi-weekly time report. For exempt employees this report must be signed by the supervisor and submitted by the 7th of each month to the HR Service Center. While an employee is on an intermittent leave, the University may transfer the employee to an alternative position which better accommodates recurring leave and which has equivalent pay and benefits.
5. Upon return from FML, the employee will generally be returned to the position held when leave began, or to an equivalent position, with equivalent employment benefits, pay and other terms and conditions of employment.
6. Family and Medical Leave which is taken due to the employee's own serious health condition requires medical certification that the employee is fit to return to work. The employee must obtain medical certification in writing from their healthcare provider. The employee will not be permitted to return to work until an appropriate written return to work certification is provided. This is not required if the employee is using leave for the care of a newborn child, adoption, or placement of a child, or to care for a family member with a serious health condition.
7. If eligible, employees are encouraged to consider applying for Long Term Disability Insurance for their own serious health condition(s) and/or applying for disability retirement under the Teachers' Retirement System at the appropriate time. Questions regarding these options may be directed to the HR Service Center at 348-7732.

8. Employees who are not eligible for leave under FMLA, or who have exhausted their FMLA leave, may still be entitled to unpaid leave as a reasonable accommodation under the Americans with Disability Act (ADA), absent undue hardship on the University. In the event an employee has information which would suggest entitlement to such leave because of a covered disability under the ADA, the employee should promptly contact the ADA Administrator in the HR Service Center.
9. If an employee anticipates that their Family and Medical Leave may extend beyond 12 weeks, and is not entitled to additional unpaid leave under the ADA, they should consult the Staff Handbook to determine whether application may be made for any other type of leave of absence. Approval of other types of leave is at the discretion of the supervisor.
10. The employee must be on previously approved paid leave the day before and the day after a holiday period to receive holiday pay while on approved Family and Medical Leave.
11. Unless an employee has been approved for additional leave or an exception is necessitated under the ADA, an employee who fails to return to work or who is unable to return to work after the completion of an FML shall be treated as having voluntarily resigned.

Employee Benefits during Family and Medical Leave:

1. An employee may elect to keep health benefits and other voluntary benefits during unpaid Family and Medical Leave. If an employee elects to discontinue benefits during unpaid leave, the employee may re-enroll in benefits within 30 days when the employee returns to a paid status.
2. While the employee is on Family and Medical Leave, the University will maintain benefits including medical insurance as if the employee continued to be actively employed. As long as the employee is in a paid status, premiums for insurance will be deducted as usual from the employee's paycheck. If the employee ceases to be in a paid status, the employee will be responsible for paying the normal benefits premiums or contributions (the same amount that would have been deducted from their paycheck). Payment should be arranged in advance through the HR Service Center.
3. If the premiums for insurance become 30 days or more past due and a 15 day written notification is issued, insurance coverage may be cancelled and may not be reinstated until the employee returns to a paid status.
4. Taking Family and Medical Leave will not result in the loss of any employment benefits accrued before the date the leave started. Any benefits accrued during the leave will be subject to the individual circumstances of the leave and whether or not the employee is in a paid status during the leave.

Employee's Responsibilities for Family and Medical Leave:

- To apply for leave, the employee must provide appropriate notice and documentation:

- a) for leave that is foreseeable – 30 days written notice.
 - b) for leave that is unforeseeable – as soon as practical.
- Cases of a death, birth, adoption and/or placement of a child for adoption may require making changes to benefits. An employee must complete and return the appropriate documentation to the HR Service Center within 30 days of the event in order for changes to be effective immediately. Failure to complete the necessary documentation within the specified timeframe will result in the employee having to wait until the annual open enrollment period to make changes to his/her benefits. Changes may also be made within 30 days of any subsequent qualifying life event.
 - The employee needs to schedule leave through their supervisor and determine if leave is to be taken intermittently or on a reduced schedule basis. All intermittent leave must be recorded on the Intermittent FML Leave Report. The report is available at <http://bama.ua.edu/~hr/benefits/Documents/Intermittent FML Leave Record.xls>. For non-exempt employees the Intermittent FML Leave Report should be turned in with the bi-weekly time record and for exempt employees it should be turned in to the HR Service Center by the 7th of each month.
 - Medical certification for leave taken as a result of a serious health condition must be provided using the Certification of Healthcare Provider Form. A copy of the form is available on the HR website at:

<http://www.dol.gov/regs/compliance/whd/fmla/wh380.pdf>.

An employee must provide medical certification within 15 calendar days following the request for leave. (Note: This form should be returned directly to the FML Administrator, HR Service Center, G-69 Rose Administration Building.)

- When an employee goes into unpaid status, they must make arrangements to pay medical, dental and/or vision insurance premiums. The employee should contact the FML Administrator to make these arrangements.
- The employee must notify the supervisor and the FML Administrator of any change of circumstances for which FML is being taken. (For example, the duration or frequency of absences, the nature of the illness, complications, etc.)
- Family and Medical Leave which is taken due to the employee's own serious health condition requires medical certification that they are fit to return to work.
- The employee is expected to return to work by the end of the approved Family and Medical Leave. If they do not return, and if failure to return is not due to a continued or newly documented qualifying serious health condition, they may be required to reimburse the University for the employer's portion of the insurance premiums that were paid on their behalf during the leave.
- An employee who fails to return to work or who has not been approved for any other type of leave of absence or who is unable to return to work after the completion of a Family and Medical Leave shall be treated as having voluntarily resigned.

Supervisor's Responsibilities for Family and Medical Leave:

- A supervisor should be aware of what an employee's responsibilities are under FML. Please review the policy and seek assistance from Human Resources when you have questions.
- If the leave is foreseeable based on the expected care of a newborn child, placement for adoption or foster care, or planned medical treatment for a serious health condition, the supervisor should receive 30 days advance notice before the FML begins.
- When an employee is absent from work for more than three consecutive days, the supervisor should contact Human Resources as soon as possible to determine if the leave qualifies as a Family and Medical Leave event.
- A supervisor may require an employee to maintain communications with the employer throughout their leave. In addition, a supervisor should remain informed of any changes in the circumstance(s) for which leave is being taken; therefore, it is important to establish clear requirements with the employee about how often to contact their supervisor. [Note: UA policy indicates this process should take place (at a minimum) every 30 days.]
- For non-exempt employees, time records should accurately reflect use of FML in the "COMMENTS" section and any paid leave should be recorded. [Note: Non-exempt employees approved for intermittent leave must submit an Intermittent FML Leave Report to their supervisor each bi-weekly pay period. The supervisor should review, sign and turn it in with the time record. Exempt employees approved for intermittent leave must submit an Intermittent FML Leave Report by the 7th of each month to the HR Service Center. The intermittent form is available at <http://hr.ua.edu/forms/index.html>.
- If an employee goes into an unpaid status, remind the employee that he/she will be responsible for paying insurance premiums. [Note: Submit a PA form to HR indicating: Last date of work before FML, date FML began, date unpaid leave began, expected return-to-work date, and hours of paid annual, sick, comp leave time that have already been used.]
- Evaluate employee requests for intermittent leave (for appointments or medical treatments) and determine a mutually agreeable schedule to ensure minimal disruption to business operations. In addition, an employee on intermittent FML must be able to perform all assigned job duties in a satisfactory manner when at work.
- When FML is taken due to a personal serious health condition, make sure the employee provides a return-to-work release from the healthcare provider prior to the employee resuming their work schedule. The supervisor should forward a copy of the return-to-work release to the FML Administrator.
- Supervisors should contact Human Resources if recertification is needed due to changes in circumstances (for example, the duration or frequency of absences, the

nature of the illness, complications, etc.) or if new information casts doubt on the continuing validity of the original certification.

- Cases of a death, birth, adoption and/or placement of a child for adoption may also require making changes to benefits. An employee must complete and return the appropriate documentation to the HR Service Center within 30 days of the event in order for changes to be effective immediately. Failure to complete the necessary documentation within the specified timeframe will result in the employee having to wait until the annual open enrollment period to make changes to his/her benefits. Changes may also be made within 30 days of any subsequent qualifying life event.

Please see the official Department of Labor poster here for more information:

<http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>

Please contact the HR Service Center for questions regarding this policy.

348-7732

G-69 Rose Administration Building