

FAMILY AND MEDICAL LEAVE ACT POLICY Policy Number: H.05.06

SCOPE

All eligible staff and faculty employees.

ELIGIBILITY REQUIREMENTS

Employees are eligible for a Family and Medical Leave if they have worked for the University (employer) for at least one year, defined as a minimum of 1,250 hours over the previous twelve (12) months.

PURPOSE

To provide eligible employees with approved unpaid leave time required for the birth of a child, care of a newborn child, placement of a child for adoption, placement of a child for foster care, to care for a family member with a serious health condition, for the employee's own serious health condition, or care of a covered service member with a serious illness or injury incurred in the line of duty on active duty to the extent of the Family and Medical Leave Act (FMLA).

BASIC FMLA LEAVE PROVISION

FMLA requires covered employers to provide up to twelve (12) weeks of unpaid, job-protected leave in a 12 month period of time to eligible employees (male and female) for the following reasons:

- For medically related incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement from adoption or foster care;
- To care for the employee's spouse, son, daughter, or parent who has a serious health condition. (Siblings, grandparents, aunts, uncles, or in-laws, unless the family member resides with the employee, are not included in this policy); or
- For a serious health condition that makes the employee unable to perform the employee's essential job duties.

The twelve month period of time is determined by looking back twelve months to determine what FMLA leave may have been taken. FMLA leave taken during that 12 month look back will be included in determining the amount of available FMLA leave time.

FMLA provides job protection during the 12 week FMLA period which means the employee will not be replaced. When returning from leave at the end or within the 12 week period, the employee must be reinstated to the same or an equivalent position.

Leaves that extend beyond the 12 week period are not subject to the job protection provisions of the Family and Medical Leave Act.

University of St. Thomas Policies

The employee's position, after the 12-week period, may be filled in order to effectively continue the department's operations.

MILITARY FAMILY LEAVE PROVISION

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include but are not limited to attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

GENERAL PROVISIONS

ALL EMPLOYEES:

- Employees must notify their manager and Human Resources of their intent to request a Family Medical Leave.
- Employees are to complete a FMLA request form in Human Resources in order to ensure they understand the provisions of the FMLA policy.
- A FMLA leave is an unpaid leave of absence for a period of up to 12 weeks in a rolling 12-month period except where otherwise noted in this policy.
- A look back over the last 12 months is done to determine how much FMLA leave time is available.
- Employees, staff and faculty, on an approved FMLA leave are expected to return to work on the agreed upon date and may be requested to provide updated statements and documentation from the primary care physician during the duration of the leave.
- Employees will provide Human Resources with a written physician's statement stipulating that the employee is released to return to work and to describe in detail if there are any workplace restrictions.
- Employees on an approved FMLA are responsible for their portion of the cost of their group health insurance premiums. Failure to pay the insurance premiums may result in the loss of insurance benefits.
- Employees who request FMLA for the birth of a child must stipulate at the beginning of the leave period if they anticipate taking FMLA leave to bond with the baby once the primary care physician releases the employee to return to work. This time, if requested, is considered a separate leave request and, if approved along with the request for the birth of the child or adoption, is part of a continuous 12 week period of time.

University of St. Thomas Policies

- Employees requesting FMLA to care for the employee's spouse, son, daughter, or parent who has a serious health condition must present a primary care physician's statement describing the need for the employee to care for the person. Siblings, grandparents, aunts, uncles, or in-laws, unless the family member resides with the employee in their primary residence, are not included in this policy. Employees will provide Human Resources, as requested, with an updated statement from the primary care physician if the purpose of the leave is to care for an eligible family member.
- Employees requesting FMLA related to the adoption of a child or foster placement will be required to provide documentation confirming the adoption or foster placement.
- Employees who fail to return from an approved FMLA on the agreed upon return to work day will be considered to have voluntarily resigned their position.

STAFF:

- Staff may use accrued sick day benefits and vacation benefits during a FMLA leave in order to receive compensation for all or part of the time away on leave. Future sick day benefits and vacation benefits not yet accrued are not available for use during an approved FMLA leave. If the employee chooses not to use accrued vacation time, the period of time between the end of their paid sick day benefits and short-term disability benefits may be without pay. Short-term disability benefits may be available when the leave is because of an employee's own illness or disability or that of an eligible family member.

FACULTY:

- Faculty, in most cases because of the contractual nature of their employment relationship, does not accrue vacation or sick day benefits.
- Faculty will be paid for up to 12 weeks of leave time when on an approved FMLA leave.
- The amount paid while on an approved FMLA leave will not extend beyond the end date of the faculty member's faculty contract.
- Faculty members who elected a 12-month payout of their contract will continue to receive compensation under that arrangement.
- Faculty who work any part of an academic semester (i.e. Fall or Spring semesters) and are placed on an approved FMLA leave will be compensated for the duration of the semester.
- Faculty who are on an approved FMLA leave may be allowed to fulfill their contract obligations through a variety of activities other than teaching classes. Such activities must be approved in advance by the appropriate Dean and may include but are not limited to service engagements, scholarly activities, hybrid or online courses, and/or summer coursework to fulfill credit-hour obligations.
- FMLA leaves extending from the Fall to Spring semester: Faculty members who do not return to work in the Spring after the 12 week paid leave period and who choose not to engage in any other assigned duties, as determined by the Dean, will not be compensated for the remainder of the semester.

DEFINITION OF A SERIOUS HEALTH CONDITION

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of

University of St. Thomas Policies

the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

APPLYING FOR FMLA LEAVE

Employees, staff and faculty, must contact Human Resources at least 30 days in advance to initiate an FMLA request and obtain the necessary forms. In cases of adoption or foster care, employees must request FMLA before the actual placement of the child with the employee if absence from work is desired. Employees are responsible for submitting all required documents in a timely manner. If approved, a Human Resources representative will schedule a meeting with the employee, which may include their supervisor, to review responsibilities and procedures for requesting and managing leave under FMLA. If 30 days notice is not possible because of a medical emergency, a change in circumstances, or not knowing exactly when the leave should begin, employees must contact Human Resources as soon as practicable.

USE OF LEAVE

If an employee requests a FMLA leave for the birth of a child and requests additional time to care and bond with the baby, that time must be taken in a continuous block of time during the single 12 week period of time.

FMLA leave can be taken intermittently or on a reduced leave schedule when medically necessary. The primary care physician must provide specific documentation to support the need for intermittent leave to care for an eligible family member or the employee's own personal illness. This may include regular doctor visits, prescribed medical treatments, prescribed physical therapy sessions, and other physician prescribed intermittent absences from work.

Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. It is preferable that appointments be scheduled at the beginning of the employee's scheduled start time or at the end of the work day.

FMLA leave due to qualifying exigencies may also be taken on an intermittent basis.

EMPLOYEE RESPONSIBILITIES

Employees must provide sufficient information for Human Resources to determine if the leave may qualify for FMLA protection and confirm the duration of the leave. Sufficient information may include but not be limited to, that the employee is unable to perform essential job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or any circumstances supporting the need for military family leave.

University of St. Thomas Policies

Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Human Resources may request authorization from the employee allowing the University to contact the primary health care provider directly to authenticate or clarify information given in the certification form or other medical documentation provided by the primary physician.

APPROVED: Dr. Robert Ivany

Date of Original Formation: 12/14/2010

Revision Number: 11/30/2015

Revision Date: Effective Date: 11/30/2015