



Policy

Title:	Family and Medical Leaves of Absence
Effective Date:	December 1, 2019
Approved By:	President's Council
Responsible Party:	Vice-President for Human Resources and Administrative Services
History:	5/22/96; 1/24/17
Related Documents: Work Related Illness/Injury Policy; Non-FMLA Leaves Policy	

I. PURPOSE

This policy provides general information on the types of Family & Medical Leave Act leaves of absence that may be available to University employees. This policy also provides general information about certain terms that apply to each type of leave of absence.

II. DEFINITIONS

Child - A biological, adopted, or foster child, legal ward, step-child, or child of a person standing *in loco parentis* ("in place of a parent"), who is either under 18 years of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability at the time the leave is to commence. (Note: There is no requirement that the child live with the employee or be a legal dependent of the employee.)

Spouse – An individual who is legally married.

Registered Domestic Partners - Two individuals of the same or opposite sex who live together and are registered with the Salus University Office of Human Resources as being Spousal Equivalents.

Parent - A biological parent, adoptive parent, step-parent, or an individual who stands *in loco parentis* to a child.

Intermittent Leave - Leave taken in separate blocks of time due to a single illness or injury as opposed to a leave taken in one continuous period of time. "Intermittent Leaves" may be taken in hours, days, or weeks.

Reduced Leave - a change in the employee's normal work schedule (such as from full-time to part-time)

Rolling Year - the 12-month period measured backward from the date that leave begins.

Serious Health Condition (for an employee or family member) - is an illness, injury, impairment or physical or mental condition that causes a period of incapacity involving either inpatient care or continuing treatment by a health care provider.

Serious Health Condition (for a covered service member) - is an illness or injury incurred by the service member while in the line of active duty.

Covered Service member - Service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list.

Covered Veteran – (for federal military family leave) A veteran who is undergoing treatment, recuperation or therapy for “a serious injury or illness” as defined by the Department of Labor 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 that medical treatment, recuperation or therapy.

Eligible Employee for Military Medical Leave - Spouse, son, daughter, parent, or next of kin of Covered Service Member.

Continuing Treatment by Health Care Provider - may be established under any of the following circumstances:

- a. Short-term incapacity for more than three full consecutive calendar days that also involves one of the following:
 - o Treatment by a health care provider on at least one occasion with a continuing regimen of treatment under the health care provider’s supervision. The visit to the health care provider must be in-person within 7 days of the first day of incapacity.
 - o Treatment two or more times by a health care provider. The first visit to the health care provider must be in-person within 7 days of the first day of incapacity and the second treatment must take place within thirty days of the first day of incapacity and must be determined by the health care provider.
- b. Pregnancy or prenatal care;
- c. Chronic serious health condition which require periodic visits for treatment by a health care provider at least twice a year;
- d. Permanent or long-term incapacity;
- e. Absence to receive multiple treatments for restorative surgery after an accident or injury or a condition that would likely result in an incapacity of 3 or more days if not treated.

Health Care Provider - A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices or any other person determined by the Secretary of Labor to be capable of providing health care services.

Next of Kin – (for federal and state military caregiver leave) The service members’ nearest blood relative, other than the covered service member’s spouse, parent, son or daughter.

III. POLICY

Salus University will afford its eligible employees family and medical leaves under the Family & Medical Leave Act (FMLA). Under this policy, Salus University will grant, to eligible employees, during a "rolling" 12-month period, up to 12 weeks of job protected leave, or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness.

Types of Family and Medical Leaves

An eligible employee can use FMLA for any of the following reasons:

- An employee's own Serious Health Condition that makes the employee unable to perform the essential functions of his/her position.
- The birth of a Child and to care for the Child following birth, so long as the leave is taken within 12 months of the birth of the Child.
- To care for a Child placed with an employee for adoption or foster care, so long as the leave is taken within 12 months of the placement.
- To care for an employee's Child, Spouse or parent, where that Child, Spouse or parent has a serious health condition.
- Military Caregiver Leave is absence to care for a military service member who is the employee's Spouse, Registered Partner, Child, or parent with a serious illness or injury incurred in the line of active duty.
- Qualifying Military Exigency Leave

IV. PROCEDURE

Eligibility

In order to be eligible to take a family and medical leave under the FMLA, an employee must have been employed for at least 12 months of continuous employment and must have worked for at least 1,250 hours during the 12-month period immediately preceding the leave date (e.g. the "rolling 12 months").

Request for Leave

In order to apply for FMLA leave the requesting employee must complete a "Request for Leave Form." This form must be reviewed and signed by the employee's supervisor and then forwarded to the Office of Human Resources.

Employees requesting a leave should provide their supervisor with no less than 30-days' notice prior to the date on which the leave is to begin – except in emergency situations and cases in which the date of a birth or adoption placement requires the leave to begin earlier than the 30-day notice. In these instances employees are expected to provide such notice as soon as practical.

If the employee is unable due to the emergent nature of the leave to complete the required forms prior to their absence from work, the forms will be provided to the employee at their home address or another address requested by the employee, and should be returned as soon as practicable. Some leaves may be conditionally approved without having the required forms prior to the commencement of the leave based on individual circumstances.

Employees requesting illness and/or injury leaves or leaves to care for seriously ill family members should make a reasonable effort to schedule treatment so as not to unduly disrupt department/program/college/University operations.

Certifications of Leave

Salus University requires written certification for all Family and Medical leaves. In addition to the Request for Leave Form completed by the employee, a "Medical Certification Form" must also be submitted. There are varying Medical Certification forms depending upon the reason for the leave. These forms can be obtained from the Office of Human Resources and, once completed by the employee and their health care provider, returned directly to the Office of Human Resources.

The Office of Human Resources will receive all (medical) certifications. The employee must respond to the request for certification within 15 calendar days of the notice of conditional eligibility. Failure to comply with the above mentioned requirements may result in delay or denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including termination.

Incomplete Certifications

If an incomplete medical certification is received, the Office of Human Resources will provide the employee with the opportunity to either have the health care provider correct the certification or provide the employee with the option of having a representative of the Office of Human Resources contact the health care provider directly. (This will require a written release by the employee to their health care provider.)

The employee will have seven (7) calendar days to resolve any deficiencies in the medical certification. If, after seven (7) calendar days the identified deficiencies have not been resolved, the FMLA request may be denied.

2nd Opinions

Salus University may request recertification and/or a second opinion for the serious health condition of the employee or the employee's family member in accordance with the regulations under the FMLA.

Recertification

If, after the initial medical certification, the employee needs to renew or change the leave request, they may be required to submit an additional or amended medical certification to the Office of Human Resources. Recertification is also necessary when the employee seeks an extension of his or her leave. The employee must provide new/updated medical certification in each subsequent leave year. Salus University may require recertification of the ongoing need for leave every 30 days or more often depending on the circumstances of each individual situation. Failure to provide proper medical certification may result in the denial of FMLA leave, or in a delay of its approval.

Approval/Denial Notice (Designation of Leave)

Once the Office of Human Resources receives a completed medical certification and the Leave Request Form signed by the employee and their supervisor, the employee will be notified within five (5) business days whether or not the leave is approved or denied along with a designation of the leave as FMLA. The University may retroactively designate leave as FMLA leave with appropriate notice to the employee. If an eligible employee's absence that begins as other than FMLA leave later develops into an FMLA qualifying absence, the entire portion of the leave period that qualifies under FMLA may be counted as FMLA leave.

Duration of Leave

Eligible employees may receive up to 12 work weeks of leave during any Rolling Year.

Continuous Service Credit

Length of service accrual is continuous during the leave.

Using Family Medical Leave Intermittently or on a Reduced Schedule

Employees may take leaves intermittently or on a reduced schedule because of a serious or chronic health condition of their own, a family member's, or for Military Family Leave. Health care provider verification is needed when using intermittent leave for a serious or chronic health condition. For an intermittent leave or a leave on a reduced schedule, there must be a medical need for the leave – as distinguished from voluntary treatments and procedures – such that the medical need can be best

accommodated through an intermittent or reduced-leave schedule. Employees needing such schedules must attempt to schedule their leave so as to create minimum disruption to the employee's department/program/college/University. Only the amount of leave actually taken is counted toward the 12 weeks of Family & Medical Leave. Where an employee normally works an abbreviated or part-time schedule, the amount of leave to which the employee is entitled is determined on a pro-rata basis.

If a reduced or intermittent work schedule is foreseeable based on planned medical treatment, an employee may be temporarily transferred to an alternative position with equivalent pay and benefits in order to accommodate better the recurring periods of planned intermittent or reduced-schedule leaves. The employee is entitled to be reinstated to his/her former position, or equivalent, once the reduced or intermittent work schedule and/or temporary reassignment has ended.

Supervisors are responsible for maintaining attendance records in accordance with Family & Medical Leave recordkeeping requirements.

Maternity Leave may only be taken on an intermittent basis if medically necessary. Leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

Absent unusual circumstances, employees must comply with the University's customary call-in procedures when they miss work for reasons potentially covered by FMLA leave. Employees must also designate their absence as an FMLA covered event each time intermittent leave is utilized. Failure to comply with these procedures may subject the employee to discipline up to and including employment termination.

Spouses/Partners/Parents Both Work for Salus University

If both parents of a newborn are University employees and are both entitled to leave under this policy, the aggregate number of work weeks of FMLA leave to which both are jointly entitled is limited to 12 work weeks during any 12-month period, if such leave is taken:

- For the birth or placement of a child
- For a parent's serious health condition.

If each wishes to take leave to care for a covered injured or ill service member, they may only take a combined total of 26 weeks of leave.

Additional leave time may be available under Non-FMLA Leave of Absence Policy if necessary.

Benefits during FMLA Leaves

Type of Pay Available during FMLA Leaves

Reason for Leave	Sick Leave	Personal Days	Vacation Days
Employee's Own Serious Health Condition	Yes	Yes	Yes
Birth of a Child (Mother)	Yes	Yes	Yes
Adoption, care of a newborn, foster care placement (Mother)	No	Yes	Yes
Adoption, birth/care of a newborn, foster care placement (Father)	No	Yes	Yes
Serious health condition of spouse/child/parent	No	Yes	Yes
Military Caregiver Leave	No	Yes	Yes
Military Qualifying Exigency	Yes	Yes	Yes

Benefit	What occurs during an FMLA Leave
Compensation	See above chart.
Vacation, Sick & Personal Time	Do not accrue during an unpaid leave. Award is pro-rated upon return to work for remainder of new award year.
Health Benefits	As long as employee share of premiums are paid, the University will continue to pay its share of the premiums.
Voluntary Benefits	As long as employee share of premiums are paid, the University will continue to pay its share of the premiums.
University Retirement Contribution	Will be made by the University during paid and unpaid leave
Employee Retirement Contribution	May continue to be made as long as the employee is in paid status during the leave
Tuition Remission	Will continue during leave if approved prior to the commencement of the leave.
Life Insurance & AD&D	Will continue during paid and unpaid approved leave.

While on paid leave, the University will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee is responsible for submitting this payment by mail to Salus University, c/o Human Resources Department. 8360 Old York Road, Elkins Park, PA 19027. The payment must be received by the first day of every month. A 30-day grace period applies. If full payment is not postmarked within the 30-day grace period, benefits may be terminated.

In some instances, the University may recover—on a prorated basis—premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

An absence covered by an approved FMLA Leave will not be considered a break in service for purposes of determining an employee's longevity or participation in any employee benefit plan.

TYPES OF FMLA LEAVES:

Birth of a Child/Care of a Newborn

For the birth of a child, the employee who delivered the child is required to exhaust all available sick leave for the period of time that they are deemed medically unable to work. This period of time is usually six (6) or eight (8) weeks from the date of delivery – depending upon the type of delivery. If an employee does not have enough available sick time to cover that entire period, for the remainder of the time away from work, the employee is required to use available personal or vacation time. All available paid time away from work must be utilized before the employee takes a leave without pay.

For a leave to care for a newborn, male and female employees are required to use vacation and personal leave (if applicable) before taking an unpaid leave.

Adoption

For the adoption of a child, an employee is required to exhaust all or a portion of available vacation leave and personal leave before the leave goes without pay.

Foster Care of a Child

For the foster care of a child, an employee is required to exhaust all available vacation leave and personal leave before the leave goes without pay. Use of sick leave is not permitted for foster care placements.

Serious Health Condition of an Employee's Child, Spouse or Parent (Other Than Birth)

For the serious health condition of an eligible employee's child, spouse or parent, an employee is required to exhaust all available vacation and personal leave before the leave goes without pay.

For planned medical treatment necessitated by the child's spouse's or parent's serious health condition, the employee should make a reasonable effort to schedule treatment to minimize the disruption to the employee's department/program/college/University operational needs. If practicable, an employee should give at least 30 days advance notice of the need for leave.

Serious Health Condition of an Employee

For the serious health condition of an eligible employee, the employee must exhaust all sick, vacation and/or personal leave before he/she goes on leave without pay.

For planned medical treatment necessitated by the employee's serious health condition, the employee should make a reasonable effort to schedule treatment to minimize the disruption to the department/program/college/University's operational needs. If practicable, an employee should give at least 30 days advance notice of the need for leave.

Military Caregiver Leave

Military Caregiver Leave allows up to 26 weeks of leave in a single 12-month period to be granted to an eligible employee to provide care to an injured covered service member who is the eligible employee's spouse, son, daughter, parent, or eligible 'next of kin.'

The 26 weeks is inclusive of the 12 weeks of leave already provided under regular Family and Medical Leave. This leave can only be used once and must be used within one 12-month period. Although the leave is unpaid, the employee is required to use available vacation or personal leave to remain in paid status for all or part of the absence.

Qualifying Military Exigency Leave

Qualifying Exigency Leave allows up to 12 weeks of leave to be granted to an eligible employee who is the spouse, son, daughter, or parent of a service member who is placed on active duty or has been notified of an impending call or order to active duty so that the eligible employee may attend to any of the following 'qualifying exigencies':

- Family preparations resulting from a short-notice of deployment
- Military events and related activities
- Child care and school activities affected by the deployment
- Financial and legal arrangements affected by the deployment
- Counseling related to the deployment
- Time with service member during rest and recuperation leave
- Post-deployment activities
- Additional activities related to the active duty or call to active duty agreed to by employee and employer.

The 12 weeks is not in addition to the regular 12 weeks of leave available for other FMLA purposes. Although the leave is unpaid, the employee is required to use available vacation or personal leave to remain in paid status for all or part of the absence.

Return to Work after FMLA Leave

Employees are expected to be able to return to work by the end of their approved leave. Prior to returning from leave for a personal medical condition, the employee must obtain a release from his or her healthcare provider that confirms the employee is fit to return to work to perform regular duties. The release to return to work notice must be submitted to the employee's supervisor at least two (2) days in advance of the expected date of return reflected on the Leave Request Form. After the supervisor has reviewed the form, it should be forwarded to the Office of Human Resources where it will be retained.

If the employee is released to return to work with restrictions or requested accommodations, the return to work note must detail the requested restrictions. The employee's department/program, in consultation with the Office of Human Resources, will determine whether the restriction can be reasonably accommodated.

If an employee on FMLA Medical leave is released to return to work sooner than the expected return date listed on the original Leave Request Form, the employee must notify their supervisor within two (2) business days of receiving the release to coordinate a revised return to work date.

Employees who fail to provide a Fitness for Duty note are not permitted to return to work.

If the employee is not medically released to return to work at the end of their FMLA leave, employees are eligible to apply for a Non-FMLA Medical Leave of Absence for a period of up to one year (with the 12 weeks of FMLA leave included in that one year time period). See Non-FMLA Leaves Policy.

Employees who exceed their FMLA entitlement without extension(s) of their leave approved under other appropriate leave provisions may be subject to dismissal from employment and applicable attendance policies.

Protections

Provided any/all required return to work notes are submitted, an employee must be restored to the same job or to an "equivalent job" at the end of the Family Medical Leave period (12 weeks) or at the end of the Military Family Leave period (26 weeks). The employee is not guaranteed the actual job held prior to the leave. An equivalent job means a job that is virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions (including shift and location). Equivalent pay includes the same or equivalent pay premiums, such as the same opportunity for overtime as the job held prior to FMLA leave.

An employee is entitled to any unconditional pay increases that occurred while he or she was on FMLA leave, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted only if employees taking the same type of leave for non-FMLA reasons receive the increases.

All benefits an employee had accrued prior to a period of FMLA leave must be restored to the employee when he or she returns from leave. An employee returning from FMLA leave cannot be required to requalify for any benefits the employee enjoyed before the leave began.

Limitations to Protections

An employee on FMLA leave is not protected from actions that would have affected him or her if the employee was not on FMLA leave. For example, if a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours.

If an employee is laid off during the period of FMLA leave, the employer must be able to show that the employee would not have been employed at the time of reinstatement.

An employer may also deny restoration to a “key” employee under certain circumstances. A key employee is a salaried, FMLA-eligible employee who is among the highest-paid 10 percent of all of the employer’s employees within 75 miles.