



**FMLA, Parental and Medical Leave #1710.145**

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
November 20, 2009	February 19, 2025	Division of Human Resources Benefits Administration

**POLICY STATEMENT**

This policy outlines the federally mandated Family and Medical Leave Act (FMLA); the University Parental and Medical Leave.

An employee who takes leave under this policy will be able to return to the same position or a position with equivalent status, pay, benefits and other employment conditions for an employee returning from a FMLA leave. For all other leaves, FIU has the discretion, but is not required, to return the employee to the same or a position with equivalent status, pay, benefits and other employment conditions.

If the employee has accrued vacation, sick and/or earned compensatory leave, the employee must use paid leave first and take the remainder of the leave period as unpaid leave. Having accrued vacation, sick, and/or earned compensatory leave does not guarantee the possibility of a longer leave of absence than noted in this policy.

While the employee is on any of the leaves described in this policy, the employee is not permitted to work either for FIU or outside of FIU. While on leave, the employee's access to FIU systems will be disconnected for the duration of the leave unless requested by the supervisor and approved by the Office of Employee and Labor Relations (ELR).

While an employee is on paid leave under this policy, the University will continue to pay the matching portion of the employee's health and basic state life insurance premiums. While on approved medical leave of absence without pay under this policy, the University will continue to pay up to six (6) months of the State's contribution portion for health insurance premiums so long as the employee pays his/her portion of the premiums. Employees do not accrue vacation or sick hours while on unpaid leave.

**FAMILY MEDICAL LEAVE ACT (Applies to all Eligible Employees)**

The Family and Medical Leave Act (FMLA) grants up to twelve (12) workweeks of leave within a twelve (12) month period (or twenty-six (26) weeks of military caregiver leave)

for certain family and medical reasons.

The University is responsible in all circumstances for designating leaves as FMLA-qualifying when appropriate and providing the designation to the employee within five (5) business days, absent extenuating circumstances, after the University has had sufficient information to determine whether the leave is FMLA-qualifying. FMLA does not allow the University to delay the designation of a FMLA-qualifying leave or designate more than the twelve (12) weeks of leave (or twenty-six (26) weeks of military caregiver leave) as FMLA leave.

#### Eligibility

To be eligible for FMLA leave, an employee must:

- Have worked for the employer at least twelve (12) months; and
- Have worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA leave.

#### Qualifying Events

An eligible employee is entitled to a total of twelve (12) workweeks of unpaid leave in a rolling twelve (12) month period for one or more of the following reasons:

- The birth of a child and in order to care for that child;
- The placement of a child for adoption or foster care, and to care for the newly placed child;
- To care for a spouse, child, or parent [but not a parent-in-law] with a serious health condition;
- The serious health condition of the employee;
- To address a qualifying exigency as defined under FMLA arising out of the fact that a spouse, son, daughter, or parent has been called to covered active duty; and/or
- To care for a covered servicemember with a serious injury or illness. This special leave entitlement for servicemember caregivers grants eligible employees a total of twenty-six (26) work weeks/nine hundred-sixty (960) hours of leave in a single twelve (12) month period.

A rolling twelve 12-month period measured backward from the date an employee uses any FMLA leave.

### Leave Entitlement

- Leave may be taken on a continuous, intermittent, reduced workday/workweek basis or a combination thereof.
- For the birth or placement of a child, leave entitlement expires at the end of the twelve (12) month period beginning on the date of the birth and/or placement of a child. Spouses who are both employed by the University may be limited to a:
  - Combined total of twelve (12) weeks of leave during a twelve (12) month period if the leave is taken to care for the employee's parent with a serious health condition or for the birth or placement of a child; or
  - Combined total of twenty-six (26) weeks of leave during a single twelve (12) month period to care for a covered military servicemember with a serious injury or illness.

### Notice and Certification

- Employees must provide thirty (30) days' advance notice, in writing, when the need is foreseeable; otherwise, such notice must be given as soon as practicable.
- The University requires employees to provide medical certification to support a medical absence of four (4) or more days including but not limited to an overnight stay in a hospital or inpatient care facility, due to his/her serious health condition or to care for a parent or child.
- The employee may be required to get a second medical certification if the University has reason to doubt the validity of a complete and sufficient certification. The University can choose the health care provider to provide the second opinion but generally may not select a health care provider who it employs or contracts with on a regular basis. If the second opinion is different from the original certification, the University may require the employee to get a third certification from a health care provider selected by both the employee and the University. The opinion of the third health care provider is final and must be used by the University. The University is responsible for paying for the second and third opinions, including any reasonable travel expenses for the employee or family member. The employee is provisionally entitled to FMLA leave while waiting for the second or third opinion.
- Paid leave of absence is limited to one year, with additional review and approval required for any extension beyond this period.
- At the completion of the leave, if applicable, present a Fitness for Duty Certificate stipulating the employee's ability to return to work.

### **Parental Leave (Excludes Temporary and Student Workers)**

In addition to the twelve (12) weeks under FMLA for the birth or adoption of a child, the University may grant up to twelve (12) weeks of parental leave for the qualifying events listed below.

#### **Qualifying Events**

- The birth of a child and in order to care for that child;
- The placement of a child for adoption or foster care, and to care for the newly placed child.

#### **Leave Entitlement**

- Parental leave may begin no more than two (2) weeks prior to the delivery date and no later than a year of when the child is born or adopted.
- Leave may be taken on a continuous, intermittent, or reduced workweek/workday basis, or combination thereof contingent upon supervisory approval.
- Spouses who work for the same employer share a total of twelve (12) workweeks of FMLA leave per leave year for:
  - The birth of a child,
  - Placement of a child with the employee for adoption or foster care, or Care for a parent with a serious health condition.
- Spouses who work for the same employer also share a total of twenty-six (26) work weeks of FMLA to care for a military family member with a serious injury or illness.

#### **Notice and Certification**

- Parental leave of absence requests shall be in writing with at least thirty (30) days' advance notice, otherwise such notice must be given as soon as practicable. The request must indicate the period of leave and the anticipated date of return.
- Documentation must be provided by the employee's doctor or spouse's doctor of the expected due date, child's birth certificate, or official documentation for adoption or foster care.

### **MEDICAL LEAVE NON-FMLA (Excludes Temporary and Student Workers)**

Medical leave applies to an employee who is not eligible for FMLA and who is absent for more than four (4) days including but not limited to an overnight stay in a hospital

or inpatient care facility due to his/her serious health condition or to care for an immediate family member.

#### Non-FMLA Eligibility

- The employee has not met the initial FMLA eligibility requirements (i.e., length of service or minimum hours worked);
- The employee has a medical condition that has exhausted the twelve (12) weeks of FMLA entitlement either from a prior leave or from an existing ongoing condition but will be returning to work for FIU upon recovery or the end of the leave;
- or
- The medical facts presented do not support eligibility as defined under FMLA but the employee will be returning to work for FIU upon recovery or the end of the leave.

#### Notice and Certification

- Employees are to provide thirty (30) days' advance notice, in writing, when the need is foreseeable; otherwise, such notice must be given as soon as practicable.
- The University requires employees to provide medical certification to support a medical absence of four (4) or more days including but not limited to an overnight stay in a hospital or inpatient care facility, due to his/her serious health condition or to care for an immediate family member.
- An employee on extended leave (e.g., a year or more) will be required to present an additional medical certificate to confirm and demonstrate that the illness/injury continues and still qualifies for coverage under this policy.
- The employee may be required to get a second medical certification if the University has reason to doubt the validity of a complete and sufficient certification. The University can choose the health care provider to provide the second opinion but generally may not select a health care provider who it employs or contracts with on a regular basis. If the second opinion is different from the original certification, the University may require the employee to get a third certification from a health care provider selected by both the employee and the University. The opinion of the third health care provider is final and must be used by the University. The University is responsible for paying for the second and third opinions, including any reasonable travel expenses for the employee or family member. The employee is provisionally entitled to FMLA leave while waiting for the second or third opinion.
- At the completion of the leave, if applicable, present a Fitness for Duty Certificate stipulating the employee's ability to return to work.



#### **SCOPE**

The policy applies to all eligible employees.

#### **REASON FOR POLICY**

To administer the federally mandated Family and Medical Leave Act (FMLA); the University Parental Leave; and the University Medical Leave in accordance with University guidelines.

#### **DEFINITIONS**

<b>TERM</b>	<b>DEFINITIONS</b>
Employee	A person employed for wages or salary.
Covered Active Duty	(a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (b) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.
Covered Servicemember	(a) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness: or (b) 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 (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
Immediate Family	spouse, parent (including stepparents), children (including foster or stepchildren, and children under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability), brother and sister (including stepbrother and stepsister), grandparents (including step grandparents) and grandchildren (including step grandchildren).
Next of Kin	nearest blood relative of that individual
Qualifying Exigencies	may include attending certain military events, arranging



for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

### ROLES AND RESPONSIBILITIES

Summarizes the responsibilities of the University, college offices, divisions, departments or positions named in the policy.

### RELATED RESOURCES

The Family Medical Leave Policy should be based on the most current information from the Family Medical Leave Act (FMLA).

United States Department of Labor Employment Standards Administration

- <http://www.dol.gov/whd/fmla/>
- <https://hr.fiu.edu/employees-affiliates/life-events/>

### CONTACTS

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### HISTORY

**Initial Effective Date:** November 20, 2009

**Review Dates** (*review performed, no updates*): N/A

**Revision Dates** (*updates made to document*): August 9, 2024; February 19, 2025.