

Doc. T93-123  
Passed by the BoT  
November 10, 1993  
Revised 2/16/94

## **FAMILY LEAVE POLICY**

### **Applicability**

This policy shall apply to all eligible non-unit employees of the University of Massachusetts.

### **Family and Medical Leave**

In accordance with the Family and Medical Leave Act of 1993 ("FMLA"), employees of the University are entitled to up to 12 weeks of unpaid leave during any calendar year. Leave may be granted for any of the following reasons:

- the birth of a child and in order to care for a child, provided any such leave concludes within 12 months of the birth of the child;
- the placement of a child with the employee for adoption or foster care, provided any such leave concludes within 12 months of the placement of the child;
- the care of an employee's spouse, child, or parent with a serious health condition; or
- the employee's own serious health condition that makes the employee unable to perform the essential functions of the position.

Leaves covered by this policy will be referred to as "FMLA" leave. Any leave taken by an eligible employee for any of the reasons covered by this policy will be considered FMLA leave and will be credited as such in University records, even if the employee does not specifically identify it as FMLA leave.

### **Eligibility**

To be eligible, employees must have been employed by the University for at least 12 months and have worked at least 1250 hours during the 12 month period immediately preceding the commencement of the leave.

### **Duration**

FMLA leave may last for a total of up to 12 weeks during any calendar year. Alternatively, leave taken for the serious health condition of a spouse, child, parent, or of the employee may be taken intermittently or on a reduced schedule, if medically necessary. This means, where appropriate, taking leave in blocks of time, or by reducing the normal weekly or daily work schedule, so long as FMLA leave does not exceed a total of 12 weeks during the calendar year. Leave for the birth, adoption, or placement of

a child may be taken on an intermittent basis only by prior arrangement with the University.

An employee and spouse both working for the University who are eligible for FMLA leave are permitted to take only a combined total of 12 weeks if the leave is for the birth, adoption, or placement for foster care of a child or to care for a parent with a serious health condition.

## **Covered Health Conditions**

In accordance with the FMLA, a "serious health condition" means one of the following conditions affecting the employee or the employee's child, spouse, or parent:

- an illness, injury, impairment, or physical or mental condition involving inpatient care in a hospital, hospice, or residential medical-care facility;
- any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities for a condition that also requires continuing treatment (that is, being treated two or more times, or one treatment resulting in a regimen of continuing medication or therapy) under the supervision of a health care provider (i.e. doctor, dentist, clinical psychologist);
- continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than 3 calendar days; or
- prenatal care.

## **Leave Arrangements**

Employees should submit a leave application to their immediate supervisor, who will forward it to Human Resources.

In instances where leave is foreseeable, employees must provide 30 calendar days advance notice of the leave request. In cases of planned medical treatment, the employee should consult with the immediate supervisor in an attempt to schedule the leave so as not to disrupt unduly the University's operations. Where leave is not foreseeable, such as during a medical emergency, notice must be given as soon as practicable, and ordinarily within one or two business days of when the employee learns of the need for the leave.

Where the leave is for the serious medical condition of the employee or the employee's spouse, child, or parent, the employee must submit a medical certification form supporting the need for the leave. This form will be provided by the Human Resources Department and will be filled in by the employee's health care provider. In certain instances, a second or third medical certification may be required at the University's expense. An employee will not be permitted to commence or remain on a FMLA leave unless a valid medical certification form is provided.

In the case of a foreseeable intermittent leave for planned medical treatment or during a period of recovery from a serious health condition, the University may require an

employee to transfer temporarily to an available alternative position, at the equivalent pay and benefits, for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.

### **Pay During Leave**

Except as provided in this paragraph, all FMLA days are without pay. However, an employee may use accrued vacation and personal days for any covered FMLA leave, may utilize accrued sick days for FMLA leaves due to the employee's own serious health condition, and may use family sick leave for the illness of a spouse, child or parent. The University may, in its discretion, based on the needs of the campus, require an employee to utilize accrued vacation, personal, or sick days during a covered leave. The Human Resources Office will notify the employee if the University is going to require the use of accrued time during a covered leave.

### **Benefits During Leave**

The University will maintain group health insurance coverage during a covered FMLA leave on the same terms as if the employee had continued to work. Employees will be advised by the Human Resources Office about the amount and method of payment of their portion of the health insurance premium.

In the event an employee does not return from a covered FMLA leave, except if the reason is due to the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the control of the employee, the University will recover any health insurance premiums it paid during the unpaid portion of any leave by deducting any such amounts from amounts due the employee, if any, or by otherwise seeking recovery of the premium through the legal process.

The University will maintain other benefits, such as life and disability insurance, in effect during the paid portion of a covered FMLA leave, and, during any unpaid portion of a covered FMLA leave upon timely payment of the full premium by the employee, as specified by the Human Resources Office.

### **Communication By Employee During the Leave**

The University may require the employee to submit medical recertifications during a leave at 30 calendar day intervals, and it may require an employee to report periodically on their status and intent to return to work. In cases of leaves due to the employee's own serious health condition which exceed 60 calendar days, employees must establish their fitness to return to duty in accordance with procedures in effect on their campus.

### **Reinstatement Following Leave**

Employees who return from covered FMLA leaves will be reinstated to their same or equivalent job with equivalent pay, benefits, and other employment terms and conditions.

## **Coordination With Other Statutes**

The FMLA does not supersede any provision of state law that provides greater family or medical leave rights than the rights established under the federal law. Leave entitlements under state law and the FMLA run concurrently where both laws cover the same type of leave. For example, state law provides maternity/adoptive leave; time spent on such leave will simultaneously be counted toward FMLA leave eligibility.

## **Implementation**

The President of the University of Massachusetts is hereby delegated authority to implement, amend, or modify this policy for non-unit employees of the University.