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**Subject: Family and Medical Leave Act (FMLA)**

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The Family and Medical Leave Act, revised effective January 16, 2009, (FMLA) allows employees to claim job-protected leave up to 12 weeks in a year and up to 26 weeks of leave in a year due to the expansion of FMLA under the National Defense Authorization Act.

**TYPE OF LEAVE COVERED**

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) For birth of a son or daughter, and to care for the newborn child. (can be taken anytime within the first twelve months of the birth of the baby)
- 2) For placement with the employee of a son or daughter for adoption or foster care. (can be taken anytime within twelve months of the placement of the child)
- 3) To care for an employee's spouse, son, daughter, or parent with a serious health condition.
- 4) Because of the serious health condition that makes the employee unable to perform the functions of the employee's job.
- 5) Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
- 6) To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin to the servicemember.

The term "parent" is defined with respect to the employee to include anyone who stands "in loco parentis" – anyone who had provided parental-type care for the employee during childhood, whether that person is the biological or adoptive parent or not. All information known of the medical condition of an employee, child, spouse or parent must be treated as confidential.

Equal application: The right to take leave under FMLA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption, or foster care of a child.

If both the father and mother of a child are employed by the University; however, the total leave to be taken by both parents is limited to twelve (12) weeks.

Active employee: In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

**ELIGIBILITY**

To qualify for FMLA leave under this policy, the employee must meet all of the following conditions:

- 1) An employee must have been employed for twelve (12) months by the University of Louisiana at Lafayette.
- 2) An employee must have worked at least 1250 hours during the twelve (12) months preceding the start of FMLA leave. The employee must have actually worked the 1250 hours, leave time and holiday time is excluded.

An employee is entitled to twelve weeks of FMLA leave in a “year.” This twelve (12) month period begins with an employee’s first usage of FMLA leave.

## **PROCEDURE**

The employee must give thirty (30) days written notice of the need for FMLA leave, or if unable to the employee must explain why. The employee must request FMLA using the forms:

- 1) U.S. Department of Labor – Designation Form

and one of the following to certify eligibility for FMLA:

- 2) U.S. Department of Labor - Certification of Health Care Provider for Employee’s Serious Health Condition (FMLA)
- 3) U.S. Department of Labor - Certification of Health Care Provider for Family Member’s Serious Health Condition
- 4) U.S. Department of Labor - Certification of Health Care Provider for Employee’s Serious Health Condition

This request must be sent to Human Resources prior to the commencement of the leave. Human Resources will notify the employee as to whether FMLA has been approved and at such time of approval the FMLA approved letter will be routed to the supervisors and/or department heads.

The employee is required to report periodically to his/her Supervisor on the status and intention of returning to work.

Upon the employee’s return to work from FMLA leave, he/she will be restored to their original or equivalent pay and benefits and will not lose any employment benefits that accrued prior to the start of the leave. However, if the employee fails to return to work by the end of the twelve (12) week period, he/she will be subject to termination.

The Supervisor is required to give written notice to this office of the date the employee has returned to work.

## **USE OF PAID AND UNPAID LEAVE**

Employees will be allowed to use paid leave (annual, sick or straight compensatory time, as allowed by Civil Service rules) for FMLA purposes. When paid leave is exhausted, unavailable, or cannot be used under specific circumstances, unpaid leave (leave without pay) will be granted for all, or the remainder of the employee’s FMLA leave entitlement. (\*Note: Sick Leave can only be used for the employees’ illness or injury. It may not be used for taking care of a family member.) Regardless of whether the employee uses annual, sick or compensatory leave during the designated FMLA leave period, such leave will be charged against the employee’s FMLA leave entitlement. The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee’s FMLA entitlement.

The employee is required to indicate the FMLA leave on the Application for Leave and Time Sheets.

**BENEFITS DURING LEAVE**

For the duration of FMLA leave, the employee's health coverage will continue provided the employee continues to pay his/her share of the monthly premiums. While on paid leave, the university will continue to make payroll deductions to collect the employee's share of the health care premium. While on unpaid leave, the employee must make payment either by person or by mail.