



National University of Health Sciences General Policies

Title: Family and Medical Leave Act (FMLA)	Page 1 of 5
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POLICY STATEMENT

National University of Health Sciences (NUHS) recognizes that employees may need extended time off from work and intends to provide unpaid leaves of absence consistent with the law. This policy is not meant to provide greater or lesser rights than employees are accorded under the Family and Medical Leave Act (FMLA) and applicable state or local laws.

Employees who have been employed for at least 12 months and have worked at least 1250 hours of service during the 12 month period immediately preceding the start of the leave may be eligible for FMLA leave. The 12 months the employee must have been employed need not be consecutive. In determining whether an employee has 1250 hours of service, NUHS requires that Fair Labor Standard Act hours be applied. Exempt employees for whom no hours-worked records are kept and who have worked for NUHS for at least 12 months are presumed to have met the 1250 hours of service requirement for eligibility.

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Reasons for Leave

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;

- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or**
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

Terms Used in This Policy

Spouse means husband or wife as defined under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where recognized.

Parent means a biological parent or an individual who stood in loco parentis (acted in place of a parent with a parent's legal rights, duties and responsibilities) when the employee was a son or daughter. The term parent does not include parents "in law".

Son or daughter means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis (see above) who is either under age 18 or is 18 or older and incapable of self-care due to mental or physical disability.

Serious Health Condition

The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- (A) inpatient care in a hospital, hospice, or residential medical care facility; or
- (B) continuing treatment by a health care provider.

Intended to cover conditions or illnesses affecting one's health to the extent that inpatient care in a hospital or similar facility or continuing treatment by a health care provider is needed. Continuing treatment is defined as a period of incapacity that must last for more than three consecutive calendar days. A period of incapacity refers to an inability to work, attend school or perform other regular daily activities due to the serious health condition. A regimen of continuing treatment that involves only over-the-counter-medications, bed rest, and other activities that can be started without a visit to a health care provider is not, by itself, sufficient to constitute a regimen of treatment qualifying for FMLA leave.

Leave Notice

An employee is expected to provide written notice of the need and reasons for such a leave as soon as he/she has reason to believe a leave may be necessary. A minimum of 30 days advance written notice is expected, unless it is not practicable to do so. Employees will be required to provide medical evidence of the need for the leave and, in

appropriate circumstances NUHS may request that the employee be examined by a health care provider selected by NUHS to confirm the need for the leave.

The written medical certification of the serious health condition must show sufficient information concerning the condition, including the date the condition first necessitated time off work, the date the condition will likely allow the employee's return to work, and that time off work is necessary. A Certification of Health Care Provider to convey the required information should be made available to employees requesting FMLA leave. Failure to provide proper notice can result in denial of the leave. The employee is expected to consult with his/her supervisor prior to planning a leave for medical treatment in order to schedule the treatment to avoid disruption of NUHS' operations.

Designating Leave as FMLA Leave

It is NUHS' responsibility to designate whether leave, paid or unpaid, qualifies as FMLA leave. NUHS will notify an employee whether leave will be counted as FMLA leave within two business days of making that determination. The notice will be confirmed in writing and given to the employee on or before the following payday.

Use of Paid Time

Employees taking FMLA leave must exhaust all paid time off before unpaid leave will begin. Employees will therefore be required to use sick and vacation time to cover a family/medical leave. The sick time will be used until exhausted, then vacation time will be applied to the leave until exhausted or the leave ends, whichever comes first. Vacation accrual, sick time accrual and holiday pay cede until returning from leave.

Worker's Compensation and FMLA

Employees who are absent and receiving benefits under a temporary disability plan or are out on worker's compensation are not on unpaid leave and therefore may not substitute sick or vacation days. However, the leave will be counted toward the employee's FMLA leave entitlement.

Length of Leave

A family/medical leave may not exceed 12 weeks in a 12-month period. The 12-month period is defined as a "rolling" 12 month period, i.e., each time an employee takes FMLA leave, NUHS will compute the amount of the leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

Military caregiver leave allows an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness to take

up to a total of 26 workweeks of unpaid leave during a “single 12-month period” to provide care for the service member.

When it is medically necessary for the serious health condition of an employee or a member of the employee’s immediate family, an employee may take leave on an intermittent basis or in the form of a reduced workweek. NUHS may request certification from the health care provider that such leave is medically necessary and the expected duration and schedule of such leave. The employee should coordinate this type of leave with his/her supervisor to avoid interrupting NUHS operations. Employees may also be temporarily transferred to a different position for intermittent or reduced work-week leave.

When both the employee and his/her spouse are eligible for family medical leave and they both work for NUHS, the maximum combined leave for both employees for the birth of a child, adoption of a child, or foster care placement is 12 weeks.

During the leave, an employee may be required to provide periodic reports on his/her status and intent to return to work. Failure to provide the information may affect his/her leave and/or employment status.

Benefits During the Leave

Employees may continue to receive health benefits while on leave on the same basis as when they were actively working. Employees may continue to receive health insurance provided their employee contributions are paid on time. Arrangements for payment of employee contributions while on leave must be made before beginning the leave. If benefits change during a leave, employees will be notified of the change. If an employee does not return to NUHS after the leave, he/she will be liable to NUHS for the full premiums paid on his/her behalf for benefits while on the leave.

Holidays and Temporary Closings

A holiday has no effect on counting FMLA leave usage. Holidays falling during periods of FMLA leave are counted as days of FMLA leave. However, when NUHS’ business activities temporarily cease, such as winter break, and employees are generally not expected to report for work for one or more weeks, that time will not be counted against an employee’s FMLA leave entitlement. An employee will only be paid for holidays and bonus days if they have available sick or vacation time.

Return Rights

An employee who returns from an FMLA leave which lasts 12 weeks or less in a 12-month period may return to the same position or an equivalent job. An equivalent position will have the same pay, benefits and working conditions, will involve the same or substantially similar duties and responsibilities, and will entail substantially equivalent skill, responsibility and authority as the position the employee left to take an FMLA leave.

Benefits will be resumed upon the employee's return to work at the same level as were provided when leave began, without any new qualification period, physical exam, etc. Any new or additional coverage or changes in health benefits made during an employee's FMLA leave will apply to the employee at the time those changes are made.

If the employee does not return to work on the arranged date of return and the leave is not extended, NUHS may treat his/her failure to return as an abandonment of employment and thus a voluntary resignation. If the leave was taken for the employee's own illness, he/she will be required to submit sufficient evidence of his/her medical ability to return to work from a health care provider before being allowed to return.

All Family and Medical Leaves will be administered through the Human Resources Office.

