

USM Bylaws, Policies and Procedures of the Board of Regents

Covered Active Duty status, and a maximum of twenty-six (26) weeks of FML during a Twelve- (12-) Month Period to Care for a Covered Servicemember with a Serious Injury or Illness. FML may be unpaid, paid through the concurrent use of leave accrued or acquired under an

IV of this Policy. If applicable law is modified, abrogated, superseded, or added to, this Policy shall be interpreted in accordance with the new legal framework.

II. TERMS AND DEFINITIONS

The following terms and definitions shall apply for purposes of this Policy:

- A. **Accrued or Acquired Paid Leave:** Annual leave available for use under USM BOR policy VII-7.00 Policy on Annual Leave for Regut 212.57 546.82 Tm0 gt9.54 Tm

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2. Military events and related activities (official ceremonies, programs or events sponsored by the military), or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the Covered Active Duty or call to Covered Active Duty of a Military Member;
3. Childcare and related activities arising from the Covered Active Duty or call to Covered Active Duty status of a Military Member (including but not limited to arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attendance at certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the Covered Active Duty or call to Covered Active Duty of a Military Member). For purposes of this Paragraph, section II.E of this Policy;
4. Financial and legal arrangements (to make or update legal and/or financial arrangements for the Military M representative

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exist), nurse practitioners, nurse midwives, clinical social workers, and physician assistants, who are authorized to practice under the law of the state or country in which they are practicing and are performing within the scope of their practice;

2. Licensed clinical professional counselors;
3. Christian Science practitioners listed with the First Church of Christ Scientist in Boston; and
4. Any other health care provider from whom the Institution's group health plan's benefits manager will accept certification of the existence of a Serious Health Condition to substantiate a claim for benefits

V. Serious Injury or Illness:

1. In the case of a current member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the mem

- B. The placement of a Child with the Employee for adoption or foster care;
- C. The need to take care of the Employee's Child within a twelve- (12-) month period from birth or placement;
- D. The need to take Care of the Employee's Immediate Family Member who has a Serious Health Condition;
- E. The Serious Health Condition of the Employee that makes the Employee unable to perform any one of the essential functions of the E ;
- F. The need to take Care of a Covered S Serious Injury or Illness; and
- G. Qualifying Exigencies arising out of the Covered Active Duty and call-up to Covered Active Duty of a Military Member (the E Spouse, child (of any age), or Parent).

IV. COMPENSATION DURING LEAVE

The FMLA provides Employees with job-protected leave for the qualifying reasons listed under Section III of this Policy. The FMLA allows for the leave to be unpaid, paid

or a combination of both. Each Institution shall require Employees to use concurrently

procedures in the following order: (1) Accrued or Acquired Paid Leave as defined in Section II.A; and (2) paid parental leave under USM BOR policy VII-7.49 Policy on Parental Leave and Other Family Supports for Staff. Any remaining FML will be unpaid.

V. FAMILY AND MEDICAL LEAVE ENTITLEMENT

- A. An Employee is entitled to a maximum of twelve (12) workweeks of FML, based on the E within a Twelve- (12-) Month Period. FML can be taken continuously or, per Section VII of this Policy, intermittently or under a reduced work schedule, over the course of a Twelve- (12-) Month Period. FML entitlement shall not be carried over from a Twelve- (12-) Month Period to the subsequent Twelve- (12-) Month Period.
- B. For example:
 - 1. If an Employee normally works forty (40) hours per week and takes three (3) weeks of FML continuously, then the E three (3) weeks of leave will constitute three (3) weeks of FML.
 - 2. If an Employee normally works thirty-two (32) hours per week and takes twenty-four (24) hours of FML, then the E twenty-four (24) hours of leave will constitute three-fourths (3/4) of a week of FML.

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- b) That the President/designee intends

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any unpaid portion of an FML, an Employee shall not earn or accrue any additional leave or seniority credits.

- F. An Employee may elect to purchase service credit at the time of retirement for prior leave without pay that is qualified by the Maryland State Retirement and Pension Systems. Upon approval of a leave without pay, an Employee shall follow the Institution procedure to assure that this option may be exercised. Service credits are not applicable to the Optional Retirement Program.

X. EMPLOYEE NOTICE REQUIREMENTS

A. Timing

An Employee shall give at least thirty (30) calendar days notice (or if not practicable, as soon as practicable, generally within two (2) work days) before FML is to begin for leave based on an expected birth, placement for adoption or foster care, planned medical treatment for a Serious Health Condition of the Employee or of an Immediate Family Member, or planned medical treatment for a Serious Injury or Illness of a Covered Servicemember. For leave due to a qualifying Exigency, notice must be provided as soon as practicable. The Employee shall advise the Institution as soon as practicable if dates of scheduled leave change or are extended, regardless of whether FML is to be continuous or is to be taken intermittently or on a reduced schedule basis.

B. Content

The notice provided by the Employee shall be written and provided to the _____ or other individual as designated by the _____, sufficient to make the Institution aware that the Employee needs FML and shall include the anticipated timing and duration of the leave, if foreseeable.

C. Notice by Spokesperson

Notice may be given the E _____ g., Spouse, adult family member, or other responsible party) if the Employee is unable to do so personally.

XI. EMPLOYER NOTICE REQUIREMENTS

A. Eligibility Notice

When an employee requests FML, or when the Institution acquires knowledge that an _____-qualifying reason, the Institution shall notify the _____ days, absent extenuating circumstances. The Institution shall provide this eligibility notice in writing using the prototype form issued by the Department of Labor, Wage and Hour Division.

B. Rights and Responsibilities Notice

Institutions shall provide written notice detailing the specific expectations and obligations of the Employee and explaining any consequences of a failure to meet these obligations. This notice shall be provided to the Employee each time the eligibility notice is provided and may be contained within the same form. An Institution shall use the prototype form issued by the Department of Labor, Wage and Hour Division, which shall include:

1. A statement that the leave may be designated and counted against the Employee's annual FML entitlement if qualifying and the Twelve- (12-) Month Period defined in Section II.X of this Policy;

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absent extenuating circumstances. If the Institution has sufficient information to designate the leave as FML immediately after receiving notice of the E need for leave, the Institution shall provide the Employee with the designation notice at that time. This notice shall be provided using the prototype form issued by the Department of Labor, Wage and Hour Division, which shall meet the requirements below in Section XI.C.2. .4.

2. The Institution shall inform the Employee in this written notice that the Institution is requiring the Employee to use paid leave concurrently in the order set forth in Section IV of this Policy.
3. If the Institution will require the Employee to present a fitness-for-duty certification to be Restored to employment, the Institution shall provide notice of such requirement with the designation notice. If the Institution will require that the fitness-for-duty certification address the Employee's ability to perform the essential functions of the Employee's position, the Institution shall so indicate in the designation notice, and shall include a list of the essential functions of the Employee's position.
4. If the information provided by the Institution to the Employee in the designation notice changes, the Institution shall provide written notice of the change within five (5) business days of receipt of the Employee

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- b) A diagnosis of the nature and extent of the condition giving rise to the use of FML;
- c) The approximate date the condition commenced and its probable duration;
- d) A statement or description of appropriate medical facts regarding health condition for which FML is requested, including a regimen of continuing treatment to be prescribed;
- e) In the case of an E Serious Health Condition, certification12 latthe 0.01s/nBT 38 T

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XVIII. EXTENSION OF LEAVE

An Employee may extend the date of return from FML to the extent they have remaining FML available. Notice need only be given one time regardless of whether the FML is to be continuous or is to be taken intermittently or on a reduced schedule basis, but the Employee shall advise the Institution as soon as practicable if dates of scheduled FML are extended and provide recertification if requested.

XIX. FAILURE TO RETURN FROM LEAVE

- A. An Employee who will not be returning to the Institution at the conclusion of FML shall notify the President or designee in writing as soon as practicable. In the absence of written notification or other extenuating circumstances, failure to return from leave shall be generally interpreted as a resignation.
- B. If applicable, any benefit entitlement based upon length of service shall be calculated as of the Employee's last paid day.

XX. SPOUSES EMPLOYED BY THE SAME INSTITUTION OR UNIT

- A. Regardless of whether Spouses work at the same Institution or in the same institutional unit, each Spouse shall be entitled to a separate, individual, maximum FML eligibility amount for the reasons listed in Section III of this Policy.
- B. The amount of leave for which one Spouse may be eligible, or the amount of leave used by one Spouse, shall not limit or enhance the leave amount or the leave usage of the other Spouse.
- C. Spouses shall be entitled to take leave simultaneously or in succession and in any portion of their respective individual maximum FML eligibility amount.

XXI. MISCELLANEOUS

- A. The President or designee is under no obligation to immediately Restore an Employee whose return from FML does not coincide with the normal operating schedule of the Institution or the normal work schedule of the Employee's unit or Restore an Employee whose return date is inconsistent with the terms and conditions of the Employee's appointment.
- B. Entitlement to begin FML for reasons of childbirth, placement with the Employee of a Child for adoption or foster care, or care for a newborn Child expires by no later than the 364th day after the date of birth or placement. Any such FML must be concluded within this one-year period.
- C. When FML is taken by an Employee on probation status, the probationary period shall be adjusted upon the return of the Employee by the length of time used for FML.

D. Either the Employee or the Institution may initiate a period of FML.

IMPLEMENTATION PROCEDURES:

Each President shall identify his/her designee(s) as appropriate for this Policy; develop procedures as necessary to implement this Policy; communicate this policy and applicable procedures to employees at his/her Institution and the general campus community; and post this Policy on the institutional website. Each President shall forward a copy of such designations and implementation procedures to the Chancellor.

REFERENCE: