

# Family and Medical Leave Policy

**Responsible Office: Human Resources**

## **I. POLICY STATEMENT**

Auburn University provides eligible employees job-protected leave for specified family and medical reasons. This policy is administered in accordance with the Family and Medical Leave Act of 1993 and all other applicable federal and state laws.

**Controlling Authority:** The Family Medical Leave Act of 1993 (as amended)

## **II. POLICY PRINCIPLES**

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take leave for family and medical reasons. Under this policy, Auburn University will grant to eligible employees, during a “rolling” 12-month period, up to 12 weeks of job protected unpaid leave and up to 26 workweeks of military caregiver leave to care for a covered service member with a serious injury or illness. Military caregiver leave is calculated using the 12- month period from the date Military Caregiver Leave begins, not the usual 12-month rolling period.

Employees may utilize any earned sick, annual or compensatory leave at the onset of FMLA leave in accordance with established leave policy. However, employees must use all accrued sick leave time before going into leave without pay status. The use of all accrued leave (to include, Auburn University’s On-Job Injury Program or Salary Continuation Plan) will run concurrently with FMLA and will not extend the duration of FMLA beyond 12 weeks.

### **A. Eligibility Requirements**

An employee who has been employed by the University for at least 12 months and worked at least, 1,250 hours during the 12-month period preceding the request for leave is eligible for family medical leave. All service will be counted except if the break in service was seven years or more, then only the service since the break will be counted.

If both spouses are eligible employees of Auburn University, they are each entitled to up to 12 weeks in a rolling calendar year for the birth of a child or to care for their newly born child, or for the placement of a child for adoption or foster care.

### **B. Reasons for Family Medical Leave**

#### **Basic Leave Entitlement**

An eligible employee is entitled to take up to 12 weeks of job-protected FMLA for the following reasons:

1. The employee’s own serious health condition, which renders him/her unable to perform one or more essential functions of the employee’s position, as certified by a health care provider.

2. Birth of an employee's child(ren), bonding with newborn or newly placed child, adoption of a child by the employee or official placement of a child with the employee for foster care (leaves for birth or adoption must be taken within 12 months of the event).
3. The care of a family member: the employee's spouse, sponsored adult dependent, child (including sponsored child dependent) or parent with a serious health condition, as certified by a health care provider.
4. A qualifying exigency arising out of the fact that the spouse, sponsored adult dependent, child (including sponsored child dependent) or parent of an employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

### **Military Family Leave Entitlement**

The FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is:

- (1) a current 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
- (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. (Note, the FMLA definitions of "serious injury or illness" for current service members and veterans are distinct from the FMLA definition of serious health condition).

This FMLA leave does not apply to care for former members of the armed forces who are on the permanent disability list.

### **C. Intermittent Leave or Reduced Schedule**

Eligible employees may take FMLA intermittently (in blocks of time), or by reducing their normal weekly or daily work schedule, when medically necessary for their own or an immediate family member's serious health condition or for the serious injury or illness of a service member. Auburn University will reduce employee's salary based upon the amount of intermittent leave time taken. Intermittent leave must be carefully reviewed and supported by medical certification. Employees who require intermittent or reduced-schedule leave should try to schedule their leave to minimize disruption of their unit's operation. Intermittent leave may be taken for the birth or adoption of a child or placement with the employee of a child for foster care if approved by the employee's direct supervisor and may not extend beyond 12 months after the birth, adoption or placement of a child for foster care.

### **D. Notice**

The University expects a 30-day notice of all types of FMLA leave if the leave is foreseeable. For unforeseen circumstances, the University expects as much notice as practicable.

### **E. Medical Certifications**

If the requested leave is because of a serious health condition of the employee, he/she will be required to provide a health care provider's certification providing information as to the condition and inability to perform one or more essential functions of the job within 15 calendar days after the employer's request. If the requested leave is to care for a covered family member, the employee will be required to provide, within 15 calendar days after the employer's request, a health care provider's certification providing information as to the serious health condition and stating that the employee is needed to care for the family member. The University may request subsequent re-certifications during the course of the leave. FMLA may be denied if requested certifications are not provided within prescribed time limits. Intermittent leave must be recertified every six months.

### **F. Benefits**

During the FMLA leave period, an employee is eligible to continue participation in University benefit plans. In order for the coverage to be continued, the employee will be responsible for his/her portion of the cost.

## **III. EFFECTIVE DATE**

February 2018

## **IV. APPLICABILITY**

This policy applies to all eligible employees.

## **V. POLICY MANAGEMENT**

**Responsible Office:** Human Resources

**Responsible Executive:** Associate Vice President, Human Resources

**Responsible Officer:** Executive Director, Payroll, Benefits and Records

## **VI. DEFINITIONS**

- a) **Family Member** – The employee's child, parent or spouse. These terms are defined as follows:
1. Child – A biological, adopted, or foster child, a stepchild, a legal ward, child of a person standing in loco parentis for someone who is under 18 or who is 18 or older and incapable of self-care because of a mental or physical disability.
  2. Parent – A biological parent or any individual who stood in loco parentis when the employee was a child as defined above.
  3. Spouse – Husband or wife as defined or recognized under appropriate state law.
  4. Sponsored Adult Dependent and Sponsored Child Dependent – These terms are defined in the dependent eligibility matrix <http://www.auburn.edu/administration/business-finance/pdf/dependent-eligibility.pdf>
- b) **Serious Health Condition** – An illness, injury, impairment, or physical or mental condition that involves (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or (2) continuing treatment by a health care provider. "Continuing treatment" includes a period of incapacity of more than three consecutive calendar days, as well as any incapacity due to pregnancy, prenatal care, a chronic health condition, and a permanent or long-term condition, multiple treatments for restorative surgery or for a condition that would result in incapacity of more

than three consecutive days if left untreated.

- c) **Work hours**- Time spent actually working, not to include paid time-off used.
- d) **Covered Service Member**- Employees, spouse, sponsored dependent, child, sponsored child dependent, parent or next of kin (defined as the service member's nearest blood relative).
- e) **Covered Veteran "serious injury or illness"**- An injury or illness that was incurred in the line of duty, while on active duty, and that is either:
  - 1) A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank or rating; or
  - 2) A physical or mental condition for which the veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; or
  - 3) A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or
  - 4) An injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. A Military Member's serious injury or illness also includes injuries or illnesses that existed before the Military Member's active duty and were aggravated by service in the line of duty on active duty.
- f) **Incapacity**- The inability to work, to attend school or to perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.
- g) **Health Care Provider** – Includes, but is not limited to, a doctor of medicine or osteopathy, clinical psychologist, podiatrist, dentist, optometrist, chiropractor, or licensed nurse practitioners. The university requires that a medical certification be obtained from the attending health care provider for any request from FMLA leave for serious health condition of self or family member. Forms can be obtain by a member of Human Resources.
- h) **Qualifying exigencies**- Include attending certain military events, arranging for alternative childcare, school related activities, parental care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings, rest and recuperation, any additional activities agreed to by the University and employee.
- i) **Loco Parentis** – "In the place of parent", refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a parent.
- j) **Rolling Calendar Year** - 12-month period measured backward from the date an employee uses any FMLA leave. Under the "rolling" 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

## VII. POLICY PROCEDURES

### [Family and Medical Leave Act Procedures](#)

**VIII. SANCTIONS**

Violations of this policy will be addressed by appropriate disciplinary action.

**IX. EXCLUSIONS**

There are no exceptions to this policy, as it is in direct correlation with federal law.

**X. INTERPRETATION**

Associate Vice President, Human Resources

Updated: February 2018