



## **08.225 Family Medical Leave Act**

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### **I. Policy**

Eligible employees will be granted up to 12 workweeks' leave (with or without pay) during any 12-month period for eligible family medical leave purposes. This leave applies to all EPA, faculty, and SPA employees who meet the eligibility criteria outlined below. This policy exists to establish guidelines for administering the Federal Family Medical Leave Act of 1993 in compliance with North Carolina Office of State Personnel policy. In addition to the benefits in this policy, the State Family Illness policy grants an additional 12 months' time off within a five year period to employees to care for a child, spouse or parent with serious health conditions. Employees may use accrued vacation, bonus, or sick leave, or leave without pay during Family Illness Leave. (Policy 08.226)

### **II. Definitions**

- A. An 'Eligible Employee' is a permanent or time-limited employee. This policy does not cover temporary employees since the maximum length of a temporary appointment is one year; however, if by exception temporary employment is extended beyond one year, the employee would be covered if he/she had worked at least 1250 hours during the previous 12-month period (or the equivalent of 60% full-time-equivalent load for faculty). Note that any leave granted to a temporary employee would be leave without pay. The employee must meet the following conditions:
1. The employee has worked for the State of North Carolina for a minimum of 12 months.
  2. The employee has worked a minimum of 1040 hours during the previous 12-month period (or the equivalent of 50% full-time-equivalent load for faculty).
- B. 'Eligible Family Leave' purposes include the following:
1. Birth of a child and care for the child after birth, provided the leave is completed within 12 months of birth.

2. Care for a child placed with the employee for adoption or foster care provided the leave is completed 12 months following adoption.
  3. Care for the employee's child, spouse, or parent, or other dependent living in the household where that child, spouse, or parent or other dependent living in the household has a serious health condition; or
  4. Employee's serious health condition that makes the employee unable to perform the essential functions of the position.
- C. A 'Workweek' is made up of the number of hours an employee is regularly scheduled to work each week.
- D. A 'Parent' is a biological or adoptive parent or an individual who stood in loco parentis to the employee when the employee was a child.
- E. A 'Child' is a son or daughter and may be a biological child, an adopted child, a foster child, a stepchild, the employee's legal ward, or a child of an employee standing in loco parentis.
- F. A 'Spouse' is a husband or wife.
- G. A 'Serious Health Condition' is a condition which requires either inpatient care or "continuing treatment" by a health care provider, and includes both acute and chronic conditions.

### **III. Allowable Leave Charges**

Whether taken due to birth, adoption, illness of employee, or illness of employee's child, spouse, or parent, or other dependent living in the household, periods of sick and vacation leave and periods of leave without pay (including leave without pay while drawing short-term disability benefits) count toward the 12 workweeks to which the employee is entitled. This includes leave taken under the voluntary shared leave program.

- A. Birth of a child. The employee may use available vacation, bonus and/or sick leave, or go on leave without pay; except that sick leave may only be used during the period of disability.
- B. Adoption or foster care of a child. The employee may use vacation leave, bonus leave or leave without pay.
- C. Illness of employee's child, spouse, or parent, or other dependent living in the household. The employee may use sick leave, vacation leave, bonus leave or leave without pay.

- D. Employee Illness. The employee must exhaust available sick leave and may choose to exhaust available vacation leave, bonus leave, or any portion, before going on leave without pay.

#### **IV. Reduced Work Schedule or Intermittent Leave**

In addition to provisions listed above, reduced work schedule and/or intermittent leave may be granted for family medical leave purposes when medically necessary for the employee or for the care of the employee's child, spouse, parent, or other dependent living in the household . Reduced work schedules and/or intermittent leave options are not allowable for childbirth, birth-related child care, or adoption unless the employee and university agree otherwise.

A reduced work schedule describes the situation when the employee's regular work schedule is reduced by some number of hours per week. Pay and benefits are reduced proportionately on a reduced work schedule unless the employee uses paid leave to cover the time not worked.

Intermittent leave is the use of leave hours on a recurring basis. If intermittent leave results in an employee being in a leave-without-pay status for more than half the working days in the month, vacation and sick leave accruals for the month would not be earned.

When an employee is on a reduced work schedule or intermittent leave, only the time not worked is counted against the total 12 workweeks' allowable family medical leave.

#### **V. Employee Responsibility**

The employee shall give notice to the supervisor for leave requested under this policy as follows: Birth or adoption is 30 days notice, if practicable; planned medical treatment is 30 days notice when practicable; and, if an employee is unable to give notice due to emergency medical conditions or premature birth, he or she must notify his/her supervisor as soon as practicable.

When the basis for any approved leave falls within the scope of this policy and the absence extends beyond 10 work days, the leave taken will count toward the allowable 12 workweeks of family medical leave. (Example: An employee takes two weeks sick leave beginning September 1 due to planned surgery. He suffers complications and requests additional time under this policy. The 12 workweeks of allowable family medical leave under this policy would begin September 1.)

If the employee cannot return to work at the end of the leave period, he should notify his/her supervisor in writing immediately. Failure to report at the expiration of a leave may be considered as a resignation unless the employee has been approved for short-term disability or other leave (vacation, bonus, sick or shared leave, or leave without pay).

## **VI. Certification**

- A. The university may require that a request for leave for adoption or foster care must be supported by proof of adoption or foster care.
- B. The university may require that a request for leave for serious illness of the employee or family member be supported by a medical certification from the physician. Medical certification forms may be obtained from Human Resources.
- C. UNCW may, at the discretion of Human Resources, request a second opinion by a university-designated physician. Where the first and second physicians' opinion disagree, the university may request a third opinion by a physician approved jointly by the employee and university. The third opinion would be binding. Second and third opinions will be at university expense.
- D. The university may require subsequent re-certifications on any reasonable basis. Re-certifications, if requested by the university, will be at university expense.

## **VII. Employment and Benefits Protection**

- A. Reinstatement. The employee will be reinstated to the position held when the leave began. In cases of leave due to employee illness, the university may require a physician's certification that the employee is able to return to work and perform the essential functions of the position.
- B. Accrual of Benefits. The employee shall be reinstated without loss of benefits accrued when the leave began. Benefits will accrue when an employee is in a pay status half or more of the workdays in a month. Benefits will not accrue when an employee is in a leave-without-pay status for more than half the workdays in a month.
- C. Health Benefits. The university will continue health benefits for the employee under the same conditions as coverage would have been provided if the employee had continued employment. The employee will continue to be responsible for his/her part of the insurance premium.

## **VIII. Procedures**

- A. When requesting leave, the employee shall give notice to the supervisor for leave requested under this policy, stating the beginning and end dates of vacation leave, bonus leave, sick leave, or leave without pay to be used. In cases where the employee has not requested family medical leave but has been absent in excess of 10 workdays, leave falling within the scope of this policy will count toward the allowable 12 weeks of family medical leave.

- B. Along with the request for leave, the employee shall submit medical certification Form HR 2.25 or other certification (as required in policy statement VI) to the supervisor. Medical certification forms may be obtained from Human Resources. The employee may elect to provide the certification directly to the Human Resources Department if stricter confidentiality is desired.
- C. The supervisor must forward the following documents to Human Resources: Copies of the request for leave signed by the supervisor, medical or other certification (such as proof of adoption or foster care) as required, and copies of the employee's current vacation, bonus and sick records. The supervisor may also furnish additional information that may be helpful to Human Resources in understanding the circumstances surrounding the request for leave.
- D. Human Resources will recommend approval of the leave request, or request a second opinion at its discretion. Human Resources will make any appropriate payroll adjustments and administer the medical benefit.
- E. The employee shall provide notification of return to work to the supervisor. A physician's certification that the employee is able to return to work may be required in cases of leave due to employee illness.
- F. The supervisor shall advise the Human Resources Department of the employee's return to work so that appropriate pay adjustments may be made.
- G. In the event the employee is unable to return to work at the end of the leave, notification must be made in writing to the supervisor. Additional leave under the vacation, sick, bonus, shared or leave without pay policies may be considered, if requested.