

# Utah Tech University Policy

## 349: Family and Medical Leave



- I. Purpose
- II. Scope
- III. Definitions
- IV. Policy
- V. References
- VI. Procedures
- VII. Addenda

### I. Purpose

- 1.1 In compliance with the Family and Medical Leave Act of 1993 (FMLA), Utah Tech University (“the University”) will provide its employees with family and medical leave.

### II. Scope

- 2.1 All employees who meet the applicable time-of-service requirements may be granted family medical leave.
- 2.2 For employees not eligible for family medical leave, the University will review business considerations and the individual circumstances involved.

### III. Definitions

- 3.1 ***FMLA time-of-service requirements:*** the length of time needed for employees to qualify for family medical leave. Employees who have been employed at the University for at least one year and for at least 1,250 hours during the preceding twelve-month period.
- 3.2 ***Intermittent leave:*** leave that is not taken consecutively.
- 3.3 ***Parent:*** for the purposes of this policy, defined as the biological parent or an individual who stands or stood in loco parentis to the employee when the employee was a child. This term does not include parents-in-law.
- 3.4 ***Child:*** for the purposes of this policy, defined as the biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is either under age 18, or over age 18 and incapable of self-care because of a mental or physical disability.
- 3.5 ***Reduced leave schedule:*** a leave schedule that reduces the usual number

of hours per workweek or hours per workday.

#### IV. Policy

- 4.1 Employees who meet the applicable time-of-service requirements may be granted a total of twelve weeks of unpaid and/or paid family leave, using accrued sick leave (and vacation or other leave if the employee elects to use vacation or other leave) combined, during any twelve-month period, for the following reasons:
  - 4.1.1 The birth of an employee's child and in order to care for the child;
  - 4.1.2 The placement of a child with the employee for adoption or foster care;
  - 4.1.3 To care for a spouse, child or parent who has a serious health condition;
  - 4.1.4 A serious health condition that renders the employee incapable of performing the functions of their job, such as:
    - 4.1.4.1 Inpatient care in a hospital, hospice, or residential medical care facility, or subsequent treatment resulting from such inpatient care;
    - 4.1.4.2 A condition requiring an absence of more than three consecutive work days and under continuing treatment by a medical provider;
    - 4.1.4.3 A condition lasting fewer than three work days but under the continuing treatment of (or under supervision of) a health care provider for a chronic or long-term condition, or for prenatal care.
- 4.2 Spouses employed by the same employer are entitled to up to twelve weeks family medical leave each for serious illness or injury of self or to take care of a spouse. However, the twelve weeks of family medical leave is combined between spouses for the birth or placement of a child.
- 4.3 Intermittent leave or a reduced leave schedule for medical reasons can be taken under this policy when medically necessary and if the employee and the University supervisor mutually agree to the arrangement.
  - 4.3.1 If an employee requests intermittent leave or a reduced leave schedule because of a serious health condition that is foreseeable based on planned medical treatment, the University may require the

employee to transfer temporarily to an alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.

- 4.4 Family medical leave is unpaid leave; however, the employee may be paid if they have accrued sick, vacation and/or other leave balances available.
  - 4.4.1 The employee must first use all their accrued sick leave and may use all their accrued vacation and other leave, which will count as paid family medical leave.
  - 4.4.2 If any family medical leave remains, the remaining leave period will consist of unpaid family medical leave.
  - 4.4.3 In the case of faculty employees requesting family medical leave, arrangements may be made to help accommodate care by use of any applicable provisions of this policy, as well as any additional procedures arranged by the faculty member, department chair, dean, and Human Resources (e.g., faculty may take one semester off without pay for the birth of a child or may substitute one semester off during the regular school year and teach during the summer, if classes are needed in their field and the dean approves the alternative nine-month contract, etc.) on a case-by-case basis.
  - 4.4.4 Leave due to a work-related injury, which requires an absence of more than three consecutive workdays and is under continued treatment by a medical provider, will be covered by worker's compensation (see Policy 343).
- 4.5 A twelve-month period will be determined on a "rolling" twelve months, measured backward from the date an employee uses family medical leave.
- 4.6 During a period of family medical leave, the employee will be retained on their group health plan under the same conditions that applied before the leave commenced.
  - 4.6.1 Once the employee is moved to unpaid status, the employee portion of health care premiums (medical, dental, and vision) will be paid by the University on behalf of the employee.
  - 4.6.2 When the employee returns to paid status, the portion of health care premiums that was paid by the University on behalf of the employee will be deducted from the employee's first paycheck upon returning to work.

4.7 An employee on unpaid family medical leave is not entitled to the accrual

of retirement, vacation, or sick leave. An employee who takes paid family medical leave will be entitled to normal seniority/employment benefits.

- 4.8 An employee must notify Human Resources and their department supervisor before they can be returned to active status. At the time of notification, a doctor's note certifying the employee may return to work must be supplied to Human Resources.
  - 4.8.1 If an employee wishes to return to work prior to the expiration of a family medical leave of absence, notification must be given to the employee's supervisor at least five working days prior to the employee's planned return. This notice applies for those employees who are on a continuous family medical leave basis, but not for those employees on an intermittent or reduced leave basis.
- 4.9 If an employee fails to return to work after the expiration of family medical leave, the employee will be required to reimburse the University for payment of health insurance premiums during family medical leave, unless the reason the employee fails to return to work is the presence of a serious health condition which prevents the employee from performing their job or to circumstances beyond the employee's control.
  - 4.9.1 An employee who returns to work for at least 30 calendar days is considered to have "returned" to work.
  - 4.9.2 An employee who transfers directly from taking family medical leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.
  - 4.9.3 An employee who requests an extension of family medical leave due to the continuation, recurrence or onset of their own serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to their supervisor.
    - 4.9.3.1 This request for extension of family medical leave is subject to the twelve-week maximum allowed for such leave.
    - 4.9.3.2 Eligibility for long-term disability begins after 120 calendar days of inability to work due to a personal serious health condition.
    - 4.9.3.3 This written request for an extension should be made as soon as the employee realizes that they will not be able to return at the expiration of the leave period.

- 4.10 If the employee does not return from leave, the employee is eligible for COBRA continuing coverage, as defined in Policy 346. Eligibility for COBRA begins at the end of leave or when the employer is made aware of the employee's intention not to return from leave.

## V. References

- 5.1 University Policy 343: Benefits, Payroll Deductions, and Worker's Compensation
- 5.2 University Policy 346: Staff Leave and Absences

## VI. Procedures

- 6.1 The employee requesting leave must complete the University FMLA Application form and return it to Human Resources. The completed application must state the starting and ending dates of the leave, the duration of the leave, and reason for the leave.
- 6.2 An employee intending to take family medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty days before the leave is to begin.
  - 6.2.1 If leave is to begin within thirty days, an employee must give notice to their immediate supervisor and to Human Resources as soon as the necessity for the leave arises.
  - 6.2.2 The employee need not specifically request family medical leave for it to apply.
  - 6.2.3 It is the employer's responsibility to inquire further and to designate the leave as family medical leave, if appropriate.
- 6.3 An application for leave based on the serious health condition of the employee must also be accompanied by an FMLA Medical Certification form, completed by the applicable health care provider.
  - 6.3.1 The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. In addition, the certification must state that the employee cannot perform the functions of their job.
  - 6.3.2 A second opinion of medical certification may be required, at the University's expense and the University's choice of health care

provider.

6.3.3 In resolution of conflicting health care provider opinions, a third opinion may be required, also at the University's expense. The employee and employer must act in good faith to agree on the third health care provider, and the third opinion is binding.

6.4 The University may require medical recertification at reasonable intervals, as long as a minimum of 30 days have passed (and only in connection with a family medical leave absence). Subsequent recertification may occur sooner if:

6.4.1 The employee requests an extension;

6.4.2 The circumstances have changed (nature/duration of illness);

6.4.3 The employer receives information casting doubt on the validity of the original certification.

6.5 Family medical leave taken in conjunction with sick, vacation, or other leave must be recorded on the employee's electronic leave reporting system, with the accompanying comment of "family medical leave."

## VII. Addenda

7.1 FMLA forms are available under the Human Resources' webpage, under HR Forms: <https://humanresources.utahtech.edu/benefit-forms/>.

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Policy Owner: Vice President of Administrative Affairs

Policy Steward: Human Resources

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