



## Ohio Administrative Code Rule 3349-7-60 Family and medical leave.

Effective: February 14, 2019

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### (A) Purpose

The university promotes a work environment that supports its employees in balancing the demands of the workplace with the needs of families. In accordance with the Family and Medical Leave Act of 1993, 29 U.S.C. Section 2601; 29 CFR 825 (FMLA), eligible employees are permitted up to either twelve or twenty-six work weeks of unpaid leave during a defined twelve month period for qualified leave entitlements.

### (B) Scope

This rule applies to all eligible university employees.

### (C) Definitions

(1) Consult rule 3349-7-01 of the Administrative Code.

(2) "Child" refers to a biological child, adopted child, foster child, stepchild, legal ward, or a child of a person who is standing in loco parentis, who is:

(a) Under eighteen years of age; or

(b) Eighteen years of age or older and incapable of self-care because of a mental or physical disability.

(3) "Eligible Employees" refers to any employee who has been employed by the university for at least twelve months, and who has worked at least one thousand two hundred fifty hours over the previous twelve-month period.



(4) "Health Care Providers" refers to doctors of medicine and osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, licensed professional clinical counselor and physician assistants in so far as they perform within the scope of their practice under state law; and Christian science practitioners listed with the "First Church of Christ, Scientist" in Boston, Massachusetts.

(5) "Intermittent Leave" is leave taken in a block of time or by reducing the normal weekly or daily work schedule.

(6) "Next of Kin" is the nearest blood relative of the covered service member.

(7) "Parent" refers to a parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

(8) "Serious Health Condition" refers to an illness, injury, impairment, or physical or mental condition that involves:

(a) Any period of incapacity or treatment connected with inpatient care (or overnight stay) in a hospital, hospice, or residential medical care facility; or

(b) Continuing treatment by a health care provider.

(9) "Spouse" refers to individuals who are recognized as lawfully married under the law of any state.

(D) Rule statement

(1) Leave entitlements

(a) An employee is entitled to a maximum of twelve unpaid work weeks of leave in any twelve-month covered period for one or more of the following reasons:

(i) To care for a child during the first year following birth, adoption, or foster care placement;



- (ii) To care for a spouse, child or the employee's parent who has a serious health condition;
- (iii) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee; or
- (iv) An employee's spouse, child, or parent is on active military duty or has been notified of an impending call to active duty status, in support of a contingency operation.

(b) An employee is entitled to a maximum of twenty-six unpaid work weeks of leave in any twelve-month covered period for the following reason:

To care for a spouse, child, parent, or next of kin service member who is recovering from a serious illness or injury sustained in the line of duty while on active duty.

(c) Employees who are spouses are jointly entitled to a combined total of twelve weeks of "FMLA" leave for the birth, or placement of a child for adoption or foster care, or to care for a child or parent who has a serious health condition.

## (2) Covered period

Employees may take up to twelve or twenty-six weeks of unpaid, job-protected leave in a twelve-month period for the reasons specified in this rule depending on leave entitlement. The twelve-month period is for a "rolling" twelve-month period measured forward from the date the employee returns to work from FMLA leave.

## (3) Reduced or intermittent leave

(a) Under some circumstances, an employee may take FMLA leave intermittently. Employees who require intermittent leave or reduced schedule leave for a foreseeable medical treatment (for the employee, spouse, child or parent) must work with their immediate supervisor, the director of human resources, and their health care provider to schedule the leave so that it is not unduly disruptive to the operation of the university.



(b) "FMLA" leave may be taken intermittently whenever it is medically necessary to care for a seriously ill spouse, child, parent, or because the employee is seriously ill and unable to work. Employees must follow the notification and certification provisions set forth in this rule.

(c) "FMLA" leave to care for a child during the first year following birth, adoption, or foster care placement shall not be taken by an employee intermittently or on a reduced leave schedule without the approval of the immediate supervisor and the director of human resources.

(d) The taking of FMLA leave intermittently or on a reduced leave schedule shall not result in a reduction in the total amount of FMLA leave to which the employee is entitled beyond the amount of FMLA leave actually taken.

(e) The university may limit "FMLA" leave increments to the shortest period of time that the university's payroll system uses to account for absences.

#### (4) Relationship to paid or unpaid leave policies

(a) Employees are required to take accrued but unused sick leave, vacation leave, compensatory time, personal leave, or other paid time before taking unpaid leave for the twelve or twenty-six week period. Time taken will be counted concurrently toward both FMLA leave and the appropriate paid or unpaid leave. If paid leave balances are insufficient to cover the twelve or twenty-six work weeks, the additional amount of FMLA leave necessary to attain the twelve or twenty-six work weeks of leave will be unpaid.

(b) Notwithstanding paragraph (D)(4)(a) of this rule, employees may request to reserve up to eighty hours of paid vacation leave. The request must be made in writing prior to taking FMLA leave, if foreseeable, and submitted to the director of human resources. The director of human resources may approve the request after consultation with the immediate supervisor.

#### (5) Notice and certification

(a) Employees seeking to use FMLA leave must provide:



- (i) Thirty-day advance notice of the need to take FMLA leave when the need is foreseeable;
  - (ii) Medical certification supporting the need for FMLA leave due to a serious health condition affecting the employee, spouse, child or parent;
  - (iii) Second or third medical opinions if required by the university and periodic re-certifications (at the university's expense); and
  - (iv) Periodic reports during FMLA leave regarding the employee's status and intent to return to work.
- (b) The director of human resources will respond to all FMLA leave requests in writing.
- (6) Continuation of benefits
- (a) The university will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken, under the same terms as if the employee had continued to work. Employees will continue to be responsible for their share of health care insurance premiums while on FMLA leave. If the employee is in paid leave status while on FMLA leave, appropriate deductions will be taken from the employee's earnings.
  - (b) If an employee is on unpaid leave status, and the university pays for the employee's share of health care insurance premiums, the cost of such premiums will be deducted from future earnings or from the employee's last paycheck. If the employee does not accrue any further earnings at the university, the employee will be invoiced for amounts paid on their behalf, if any.
- (7) Reinstatement
- (a) Upon return from FMLA leave, employees will be restored to their original jobs, or to equivalent jobs with equivalent pay, benefits, and other terms and conditions of employment, as required by FMLA.