

3356-7-05 Family and Medical Leave Act (FMLA) and extended serious health condition or disability leave, excluded professional/administrative employees.

- (A) Policy statement. Youngstown state university (university) is committed to compliance with the Family and Medical Leave Act (FMLA). Additionally, the university is committed to employment practices that promote the health and welfare of its employees.
- (B) Scope. Eligible excluded professional/administrative employees. Academic department chairpersons are excluded professional/administrative employees, covered by this policy.
- (C) Purpose. To provide employees with a basic understanding of their rights and obligations under the FMLA and to enable an excluded professional/administrative employee to request FMLA and unpaid extended serious health condition or disability leave.
- (D) FMLA.
 - (1) Procedures.
 - (a) An employee desiring to take leave under FMLA should review the eligibility criteria and FMLA request form on the human resources webpage at [Family and Medical Leave \(FMLA\)](#).
 - (b) Upon requesting FMLA leave, an eligible employee will receive a written notice from the university outlining the employee's rights and obligations.
 - (c) U.S. department of labor form WH-380 shall be utilized by health care providers in supporting the leave request.
 - (d) An eligible employee will be required to provide the university with thirty days' advance notice of the employee's intention to take FMLA leave. The only exception will be when unforeseen circumstances prevent the employee from providing the required notice.
 - (e) The university will require an employee to provide medical certification from the employee's health care provider or the family member's health care provider in order to

support a leave request to care for a spouse, child, or parent who has a serious health condition, or for leave due to a serious health condition that makes the employee unable to perform the essential functions of the employee's position.

The university, at the university's expense, may require a second opinion on the validity of the certification. Should a conflict arise between the opinions of the two health care providers, a third opinion will be sought. The third opinion will be provided by a health care provider mutually agreeable to the employee and the university. The expense of a third opinion will be paid by the university.

- (f) An employee is required to provide appropriate certification to support a leave request because of a qualifying exigency or to care for a covered service member with a serious injury or health condition.
- (g) As a condition of return to employment, an employee who has taken leave due to a serious health condition that made the employee unable to perform the essential functions of the employee's position, must submit certification from the employee's physician that the employee is able to resume work.

(2) Parameters.

- (a) An employee is required to meet the following eligibility criteria prior to use of FMLA leave:

 - (i) Be employed by the university for at least twelve months.
 - (ii) Complete at least one thousand two hundred fifty hours worked during the twelve-month period immediately preceding the commencement of the leave.
- (b) FMLA provides an eligible employee up to twelve work weeks of unpaid leave during the twelve-month period measured forward from the first date the employee uses FMLA leave.

- (c) The university requires FMLA leave to run concurrently with any accrued paid leave. All accrued leave must be exhausted before unpaid FMLA leave. Accrued paid leave must be utilized in the following order: sick, vacation, and documented compensatory time, if available.
- (d) FMLA leave may be used for the following reasons:
 - (i) To care for the employee's child after the birth of the child.
 - (ii) To care for a child after the child is placed with the employee for adoption or foster care.
 - (iii) To care for the employee's spouse, child, or parent who has a serious health condition.
 - (iv) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position, including a worker's compensation qualifying injury.
 - (v) Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Qualifying exigencies are one or more of the following: short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, and post-deployment activities.
- (e) An eligible employee may be permitted a total of twenty-six work weeks of leave during the twelve-month period measured forward from the first date the employee uses FMLA leave in order to care for a covered service member with a serious injury or health condition if the employee is the spouse, son, daughter, parent or next of kin of the service member. However, when FMLA leave is used for this reason and one or more of the reasons listed in

paragraph (D)(2) of this rule, the eligible employee will be entitled to a maximum combined total of twenty-six work weeks of leave.

- (f) An eligible employee will be required to use paid leaves concurrently with unpaid FMLA leave in accordance with rule 3356-7-14 of the Administrative Code (university policy 3356-7-14, “Maternity/parental leave and extended childcare leave, excluded professional/administrative employees”).
- (g) In any case in which both a husband and wife are employed by the university and both request leave due to the birth or placement with the employees of a child, the total number of work weeks of FMLA leave to which both employees are collectively entitled will be limited to twelve work weeks during the twelve-month period.
- (h) It will not be considered a break in service when an employee takes leave in accordance with this policy, provided the employee returns to work at the expiration of the leave period. During any uncompensated portion of leave, employees shall not accumulate sick, vacation, personal, or any other accrued leave.
- (i) An eligible employee who takes leave in accordance with this policy shall, upon return from such leave, be restored to the position held by the employee when the leave commenced or a similar position of equivalent pay and benefits.
- (j) During any period that an eligible employee takes leave in accordance with this policy, the university shall maintain the employee’s group health care coverage under the conditions coverage would have been provided if the employee had continued in employment for the duration of the leave. The employee will be responsible for paying the employee’s share of the health insurance costs during the leave. If the employee does not return from the leave, the university may recover the premiums it paid for maintaining the health care coverage during the period of unpaid FMLA leave.

(k) All FMLA leaves, paid or unpaid, within a consecutive twelve-month period will be counted toward the twelve-week allocation under FMLA.

(E) FMLA intermittent leave/reduced leave schedule.

- (1) FMLA leave due to the serious health condition of the employee or the employee's spouse, child, or parent, or to care for a covered service member with a serious health condition or injury, may be taken intermittently or on a reduced leave schedule when medically necessary.
- (2) An employee who takes intermittent leave or a reduced leave schedule for planned medical treatments may be required to transfer temporarily to an alternative position which has equivalent pay and benefits and better accommodates the recurring periods of leave.
- (3) Leave due to a qualifying exigency may also be taken on an intermittent or reduced leave schedule basis.
- (4) The taking of leave intermittently or on a reduced leave schedule will not result in a reduction in the total amount of leave to which the employee is entitled in accordance with this policy.
- (5) Leave due to the birth or placement of a child may not be taken on an intermittent or reduced leave schedule.
- (6) Employees covered by collective bargaining should also refer to their respective labor agreements.

(F) Extended serious health condition or disability leave. In the event of the continuation, reoccurrence, or onset of a serious health condition of the employee, after such employee has exhausted the twelve work weeks of FMLA leave as provided in this policy, or if the employee is not eligible for FMLA, the employee may continue to utilize any available accrued leaves or request an unpaid extended serious health condition or disability leave of absence.

- (1) Procedures. Employees requesting unpaid extended serious health condition or disability leave must complete and forward to the office of human resources the request for leave [form](#) specifying the

reason for the leave, the anticipated duration of the leave and include appropriate medical documentation. Unless exigent circumstances exist, a completed request must be submitted at least thirty days in advance of the need for leave.

(2) Parameters.

- (a) Duration. An employee may request unpaid leave for their own extended serious health condition or disability. This leave may be granted for a period of up to six months for an extended serious health condition or disability following the exhaustion of all accrued sick and/or vacation leave and unpaid FMLA leave.
- (b) All requests for unpaid leave must be supported by medical evidence from a physician (or duly qualified practitioner) indicating that the employee is unable to substantially and materially perform their job responsibilities for a specified period of time, a specific date by which it is anticipated the employee will be able to return to work, and any restrictions for the employee's return to work.
- (c) The granting of leave without pay is within supervisory discretion based on the business needs of the university and is subject to the final approval of the chief human resources officer or designee.
- (d) In order to allow for the business needs of the university, the office of human resources may, in its discretion, require an employee to submit consecutive requests for leave.
- (e) Employees requesting unpaid leave may be required to undergo an examination at the university's expense to confirm the state of the employee's health.
- (f) The university will maintain all group insurance benefits for a full-time employee who has been employed by the university for at least one year prior to the employee commencing an unpaid extended serious health condition or disability leave. The employee will be responsible for paying the employee's share of the health insurance cost during this leave. Failure of the employee to make

payments in a timely manner may result in the loss of health insurance benefits.

(g) If the leave without pay for an extended serious health condition or disability request is granted, human resources will notify the appropriate supervisor, administrator and/or division director.

(h) An employee who does not return at the conclusion of the approved leave should contact their Ohio pension plans regarding disability retirement eligibility or the office of human resources regarding possible long-term disability benefits provided by the university.

(G) Prohibited conduct. The following conduct is prohibited and will result in employee discipline up to and including termination and possible loss of benefits:

(1) Failure to submit required and/or complete documentation.

(2) Engaging in fraud, misrepresentation, or providing false information to the university or health care provider.

(3) Having other employment during leave without the prior written approval of the chief human resources officer.

(4) Failure to return from leave timely.